



# ASSET

## LONDON-11







# ASSET

PROFESSIONAL PAPERS FROM THE

# ACES SPRING CONFERENCE

LONDON MAY 2011



# ACES

## The Association

ACES, the Association of Chief Estates Surveyors and Property Managers in the Public Sector, represents the chief estates and property management professionals in the public sector throughout the UK.

The Association was formed in 1986 with the amalgamation of two long-standing bodies, ALAVES, the Association of Local Authority Valuers and Estates Surveyors (founded in 1949), and CLAVA, the County Valuers and Land Agents Association, (founded in 1908). Until 1995 the amalgamated Association operated under the name of LAVA, the Local Authority Valuers' Association.

## Membership

Membership of ACES is open to the senior estates surveyors and property managers from each local authority or other public sector organisation.

## Meetings

ACES has a very active branch structure with branches covering the whole of England, Scotland and Wales. There is also a Rural Branch for those members involved in rural property management or the work of County Councils.

Most of the work of the Association is carried on in the regular Branch meetings held around the country. At a national level there are usually two professional conferences each year and an Annual Meeting. The occasional Study Days on major topics are also open to non-members of the Association.

## Publications

ACES has a full programme of publications of professional interest to the public sector surveyor. The yearbook "Per Annum" contains up-to-date contact information for all members. "The Terrier" is the Association's regular journal and is published quarterly. Each year, there are also usually two editions of "Asset" containing professional papers compiled from ACES conferences and dealing with the latest issues.

## Government liaison

One of the primary roles of ACES is liaison with central government and this is carried out through a variety of means, both informal and formal, such as the DCLG/ACES Working Party and the Valuation Liaison Group.

## Further information and website

Further information on the Association and on membership can be obtained from the ACES Secretary at the address on this page or by visiting the ACES website at [www.aces.org.uk](http://www.aces.org.uk).

# ASSET

## The Publication

This edition of "ASSET" is a compilation of edited transcripts of the verbal presentations, including overheads, given at the ACES meeting in London in May, 2011. Some are formal briefing papers: others are more informal and conversational in style.

## Use

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Tel: 01 614 - 399 589  
Fax: 01 614 - 407 383  
Email: [secretary@aces.org.uk](mailto:secretary@aces.org.uk)

## Thanks

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Thanks also go to our other conference sponsors who supported the London conference, Atrium, BPS, Knight Frank, Lambert Smith Hampton, Watts, Christie & Co, DVS, Estateman, RICS and The Technology Forge.

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## OPENING ADDRESS

Welcome to Tower Hamlets and the London ACES Spring Conference held in the Guoman Tower Hotel, one of our Borough's architectural masterpieces. It is a hotel that changes its name frequently but still remains 'the monstrosity that sits on the Western fringe'.

Tower Hamlets is an interesting area. Tower Bridge forms its Western fringe, Canary Wharf its Eastern side and with the Olympic Park to the North. The Borough provides every challenge to a Surveyor's expertise and responsibility that you could imagine.

For example Tower Hamlets contains some of the oldest and some of the poorest social housing in England and areas of massive overcrowding. In contrast, Tower Hamlets also contains properties that sell regularly for between £2 and 3million. To date the most expensive residential unit is a £4million flat on the Isle of Dogs. So there is everything, particularly inequality.

The most important thing to remember about Tower Hamlets is that you will find the highest average income of anywhere in London where people work; and the lowest average income of anywhere in London where people live. That sums up the place in a nutshell.

The opening day of the ACES London Conference is on the same day as the National Referendum on the Alternative Vote and I set aside my duties as Returning Officer and leave for a short while the hurly burly and wild excitement of absolute apathy in order to deliver this Opening address. Apparently only 4 people had visited one polling station, so far, whereas the busiest had seen 180. I think it is fascinating how politicians have the ability to focus on the irrelevant, remember the big fox hunting debate that only seemed important to those people who really care about foxes. But why hold a referendum on the voting system right now? Is this the most important thing right now for the country, especially, for example, in the midst of the war in Afghanistan?

ACES Spring Conference  
London, May 2011

**KEVAN COLLINS**

Chief Executive, London Borough of Tower Hamlets

I think that the nation is telling us is that the 'don't cares' and 'don't knows' have it. Yet the reality is that we are in serious times nationally, we are in serious times in Public Service and we are in serious times for all those of us who care about our most disadvantaged communities.

We London Chief Executives recently had an important and productive Away Day at which we were sharing our pain, as well as information on progress on achieving "Savings" ie how much and from where. What was interesting was that when we discussed asset management less than 5% of the first round savings produced by the London Councils came from the work that was already in hand to sweat and use assets better.

Clearly we all know that there is more to do here. There is more that we should be doing together to find better ways of using our resources and assets in order to ensure that we protect and secure services for the most vulnerable people. I would urge you to use this Conference to look for bold radical steps, to consider how we can collaboratively find ways of using our assets and resources to support our organisations, not only to make savings but to be better at what we do. The way the Public Service uses assets is fundamental to the well being of all our organisations and the way we do business.



# ASSET



## THE AUTHOR:

Peter was born and went to school in Manchester, England and attended the University of Cambridge from where he received his doctorate. He originally joined CB Richard Ellis in 1988, having previously worked in management consultancy and as a university lecturer. At CB Richard Ellis he directed the company's research and related consulting activity with respect to UK markets for several years and is now the firm's principal analyst and spokesperson with respect to macro-economic and related market issues for Europe, the Middle East and Africa.

Peter has extensive experience of undertaking research consultancy for clients in a wide range of areas including market analysis, demand studies, forecasts, and portfolio analysis and investment strategy. He is regularly involved in providing detailed briefings to clients on market trends and prospects and their strategic implications as well as directing in-depth assessments of specific markets and sectors. Clients include investors, developers, corporate occupiers and public authorities.

Peter is a Visiting Professor in the Department of Geography, Birkbeck, University of London

# THE OUTLOOK FOR UK ECONOMY AND PROPERTY MARKETS

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BIG PICTURE VIEW OF THE RECOVERY

PROPERTY MARKET TRENDS – UNEVEN RECOVERY

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OVERALL ECONOMIC OUTLOOK

LOCAL AUTHORITIES: OPPORTUNITIES AND CHALLENGES

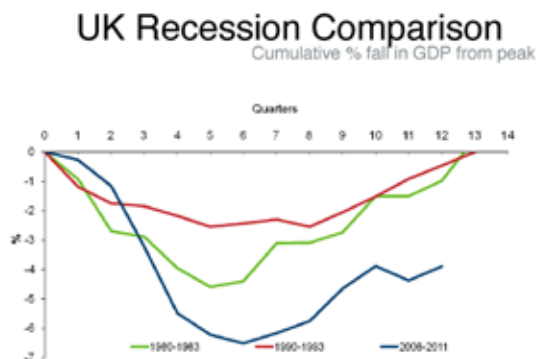
ACES Spring Conference  
London, May 2011

ACES Paper No 11.05/1 by

## PETER DAMESICK

MA PhD, Executive Director – EMEA  
Chief Economist CB Richard Ellis

# BIG PICTURE VIEW OF THE RECOVERY



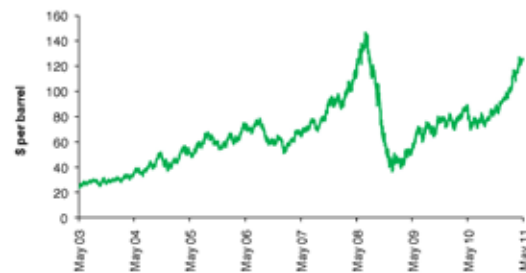
By now this picture will be very familiar to many of you. The chart compares, on a quarterly basis, the cumulative fall in GDP from its peak level at the start of the recession to where we are now. It also shows, for comparison, similar data from the previous two recessions of the early 1980s and the early 1990s. You can see that this time round the picture is quite different in that this is a much deeper recession in terms of fall in output and now, in the recovery phase, we are lagging behind in progress achieved compared to the previous recoveries. In the fourth quarter of 2010 the economy, after doing well through the middle of the year, seemed to run into a snowdrift. It did show a rebound in the first quarter of this year (2011) in terms of GDP, but not a very strong one and one interpretation is that the economy has been flat lining with some variability since the summer of 2010.

In what probably does understate the strength of the recovery the first quarter numbers seem to have been heavily affected by estimates for the construction sector and if you took those out the rest of the economy did rather better than that half a percent uplift. But clearly this is proving to be a bumpy road, a corrugated recovery I have called it, and certainly the trends going forward are unlikely to be a simple straight-line smooth trajectory of growth. Also worth bearing in mind, is that this performance, where the economy last year managed to grow by 1.5 per cent, was in the context of £200 billion of quantitative easing, interest rates at 0.5% and a budget deficit of roughly £140 to £150 billion, close to 10% of GDP. Now whatever what we may think about the size of the budget deficit and how fast we have to cut it, that is major fiscal and monetary stimulus on a massive scale, and we managed 1.5% growth.

Now, looking more broadly, various other things have come onto the horizon that do not improve the outlook. The first of those might be the oil shock of 2011, price currently nudging \$125 per barrel, in light of the turmoil in the Middle East and North Africa. How big a threat to growth is this? Well, for every extra £10 that you have to spend on petrol, that is £10 you cannot spend on something else.

## Crude Oil Price

How much of threat to growth?



The inflated oil price is adding to inflationary pressure generally; who knows whether the price will go higher, who knows what will evolve across the Middle East. Clearly this is a serious area of risk at the moment. But currently it is inflationary grit in the machine, another emerging problem, with the rate of inflation on the Consumer Price Index continuing to run well above the target rate.

## Inflation and The Base Rate



A few months ago the threat of inflation was increasing expectations that the Bank was going to move, possibly in May 2011, with the first rise in interest rates since early 2009. However, given the GDP performance figures, that expectation has now receded and the feeling is that late 2011 is the earliest that interest rates will rise. But it is worth bearing in mind that at some point interest rates will rise and we will not have a base rate of half a percent forever.

Elsewhere there are ongoing concerns about the Euro Zone debt crisis, rather like a rumbling appendix continually flaring up and threatening to go critical, putting a large part of the European banking system in intensive care if it does. The Euro Zone leaders' policy is of trying to buy time through a bit more bailout and so forth. They have now sorted out Portugal, they hope, but increasing scares about the Greek debt default are not helpful. The main expectation is that they will probably continue muddling through rather than the situation going critical, but this is all a serious risk in the current environment.

### Bond Spreads vs Bunds



For UK activity levels readings on these survey indices above 50 indicate overall expansion. One of the features of the recovery so far is that manufacturing was doing much better than the service sector, largely as the result of strong export performance so we again have a divergence here between export performance and domestic demand. The recent readings on these indicators, however, have suggested that the pace of growth in manufacturing may have eased off and indeed both the indices for April were down; still in positive territory, but not performing quite so strongly.

### Manufacturing and Service Sector Activity



An important part of the background is what is happening to the consumer who is already under severe pressure and going to come under even greater pressure as household incomes are increasingly squeezed by a combination of higher unemployment and taxation, benefit changes and some significantly slow growth in wages.

### Consumer Confidence & Retail Sales Volume



Retail spending, despite the howls of pain from the high street, has proved more resilient than might be expected at this stage. In the first 3 months of this year retail spending was up

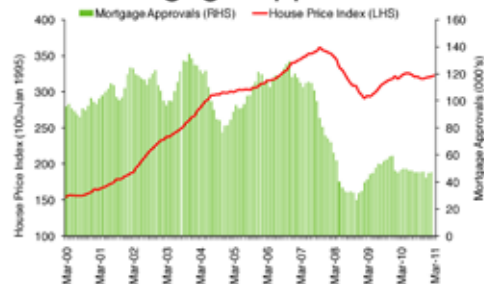
on the same period last year. The really significant thing is the collapse that we have seen recently in consumer confidence and sentiment. This will lead to more retrenchment on the part of households who seem now to be anticipating the increasing bite that the government austerity programme is going to take. As many of the cuts are only due to start taking place this year, the fiscal tightening will be much greater than it has been over the past twelve months so consumer sentiment is low to say the least.

### Property Market Trends

#### – Uneven Recovery

At best the housing market is stuck in a rut. Some may argue that it is worse than a rut, and that it is on a renewed slide. The latest numbers in the house price index show a further slip in April.

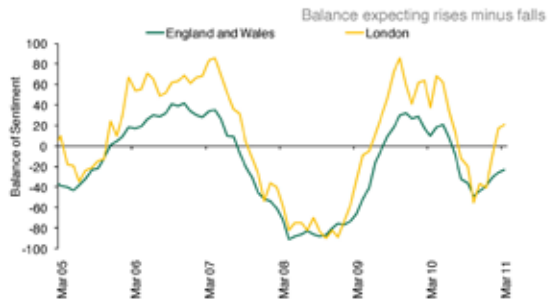
### House Price Index and Mortgage Approvals



Mortgage approvals are still at a very low level compared to pre credit crunch. This is a key constraint on current housing market activity. Alternatively this might show that house prices are still on average much too high. Affordability may be good given the present level of mortgage rates, but not in terms of the real level of house prices. If a 25% deposit is needed to secure a mortgage then this is where affordability is biting strongly. Should we have had a bigger correction in house prices than we did from 2007 to 2009? I will leave this question hanging. Was that a false rebound we had, maybe on the back of quantitative easing, which has left house prices at a difficult level? Other economies have seen much bigger falls in house prices which may ultimately be of benefit in helping the market revive.

Having said that, again if we look more closely within the housing market we see again divergent trends between the top of the London market which, whilst not necessarily "affordable" is not suffering, unlike the rest of the country. One thing we have seen opening up recently, and currently this is true of a whole number of economic indicators, is this difference between London and the rest of the country. This is indicated quite clearly on this RICS indicator of house price sentiment where we have got a positive balance of the respondents in London saying they are seeing house prices going up and expect this to continue and you have a negative balance everywhere else where further price falls are expected.

## RICS Survey of House Price Sentiment



There is a lot of evidence that London, economically, is increasingly decoupling from the rest of the UK.

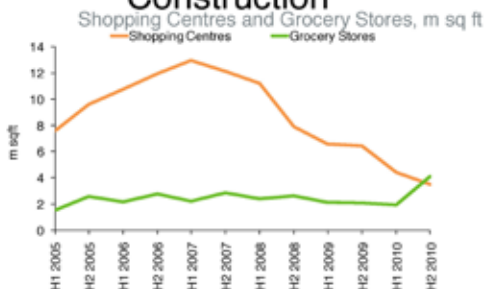
The state of housing construction and development activity will be familiar to you. House building is at a low level and massively below the level of housing starts needed to meet that target of 240,000 new houses being built every year as set by Mr Brown some time ago. We are a long way short of that and the current outlook does not look as if we will be moving towards it at any great pace any time soon.

### Housing Starts



The downturn in construction and development activity is shared across the commercial property market as well. Changes in the amount of new retail space under construction over recent years show a huge fall in shopping centre construction with no new starts and only existing schemes reaching completion.

### Retail Space Under Construction



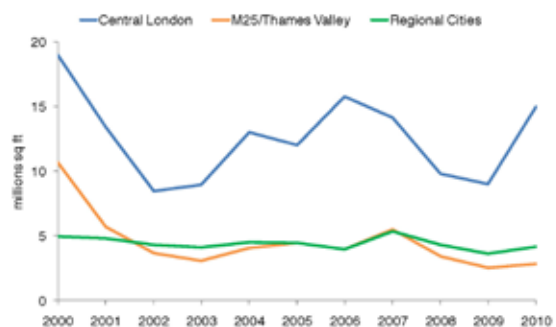
Less than four million square feet of space is shown as under construction at the end of last 2010 and about half of that was in fact the Westfield Centre at Stratford City. The other

interesting feature is that although in the past this has been much lower in absolute terms, we now have a situation where there is more shopping space under construction by the major food retailers than there is in shopping centres across the UK as a whole.

For activity in the commercial property market there are a whole range of indicators we could look at but I have just chosen one here which is the take up of office space ie simply the gross amount of space being leased, per year. Again just note this continuing theme of the disparity between London and the rest of the country.

### Central London & Regional Office Markets

#### Annual Take-up of Office Space

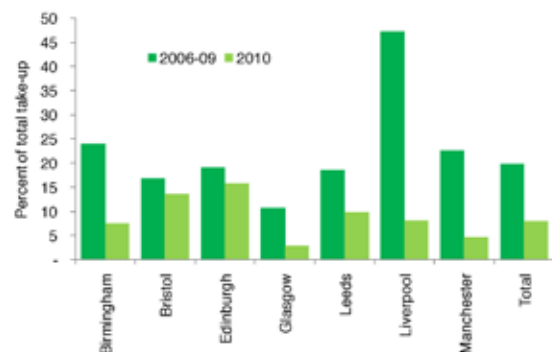


The top line here is for Central London and you can see there how the gross level of take up there was hit badly in the early part of the last decade by the "dotcom" crash, then it recovered, and then there was a big drop during the banking crisis. But, last year saw a very strong rebound with 50 million square feet let in Central London or acquired for owner occupation. That was 60% up on the previous year but if we look across the rest of the country, around the M25 and in the Thames Valley, and across the regional cities such as Manchester, Birmingham and Leeds, you can see there a much more stable and less cyclical picture, lower in absolute terms, but much more becalmed and with no real signs of activity picking up in 2010.

One of the features of some of those regional and provincial markets is the way that they have been significantly dependent and driven by take up by the public sector.

### Public Sector Office Take-up

#### % total in major regional CBDs



The example that stands out on this chart is Liverpool, where over the period 2006 - 2009 nearly 50% of all office space taken and leased in Liverpool city centre was accounted for by the public sector, whereas the average for the provincial cities is closer to 20%. Obviously that dropped off sharply as a proportion in 2010 and looking forward we are simply not going to see that level of demand in most of these cities over the short or medium term and that is going to have a significant impact in those property markets.

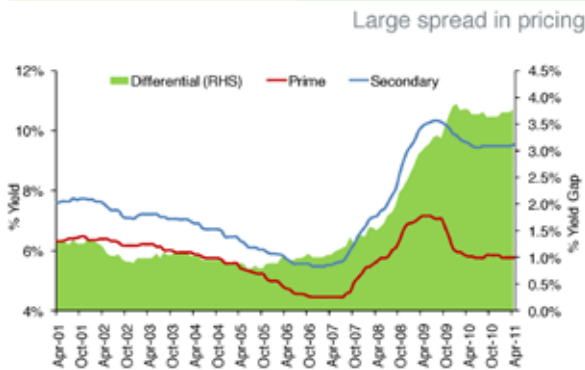
## Property Financing

In the commercial property investment market we have seen that since the low point reached in early 2009 a recovery in transaction volumes to some degree has occurred and a rebound in commercial property values, although this has clearly lost some pace over recent quarters causing it to level out on this index. And likewise the volume of investment transactions is much better than it was in 2008/2009, but is not anywhere near those extraordinary levels that were reached in 2006/2007 at the height of the largely debt financed boom in property investment.



That is the aggregate picture but there are important contrasts in what is happened to different grades and qualities of commercial property. Broadly the short hand distinction we use here is between prime property (the best quality assets in the best locations let to the strongest tenants) and secondary property that lacks those characteristics and suffers from a lesser degree of rental income security. What we have seen there is the way in which the yields on these two different categories of assets have become much more divergent.

## Prime vs Secondary Property Yields



Therefore a big risk premium has re-emerged in the market

and this is a dominant feature across the market as a whole. When the recovery in property values is discussed, issues of quality are important and we can see that illustrated here if we use the example of Central London offices. Since the market turning point in 2009 the prime has seen an increase in value of just over 40% whereas the secondary assets have only seen an increase of about half that.

## Prime v Secondary Offices

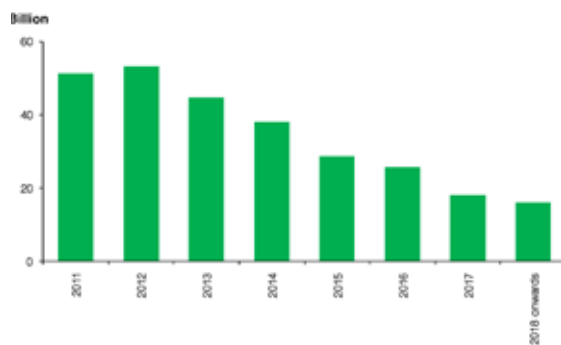
Capital Growth Index, June 2009 – March 2011



Secondary property in London is doing much better than in the UK as a whole where there has been no increase in value since the middle of 2009 when the market turned. This is an extremely important feature of the market because what it is giving to the market is a problem for the banks that lent on precisely that type of property. If there are currently problem properties in a bank's loan portfolio then that is the type of property causing it. And that is important as banks have a huge mountain of outstanding property debt out there totalling some £280 billion and £140 billion of commercial property debt is due to mature over the next few years, leading to a mountain of re-financing requirements and far outstrip to capacity of the market to re-finance.

## UK Commercial Real Estate: Debt Maturity Profile

£149bn of loans mature in next 3 years



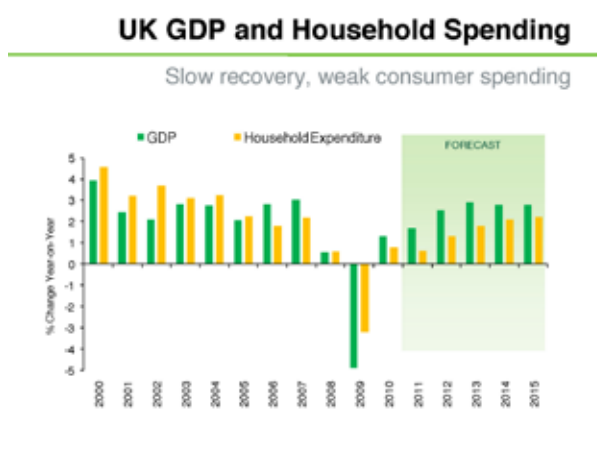
There will be a continued strategy of rolling over and extending and amending existing loans. Clearly the most active lenders, 2 Scottish banks in particular, are now pursuing strategies of progressively reducing their exposure to real estate and others are doing likewise. This is "the elephant in the room" for the commercial property, investment and development markets go at the moment. This weight of loans on bank balance sheets is tying up capital that they cannot free up and recycle into new lending. Consequently in current bank lending the number of so called active lenders in the UK is down by about a third to what it was, but even then, at any one time, there

are only about 12 or 15 banks that are actively lending money for investment or development. Lending is also very selective, with a focus on the quality of the borrowers and loan values are much lower than they were. The banks are also considering the asset type and even the region when lending. Therefore London and the South East are doing better than the rest of the country. By loan size, at above £50 million, there are fewer banks in the lending market and there is no interest at all in speculative development. But some new sources of debt are emerging, and interestingly de-regulation is making property lending more attractive to insurance companies and mezzanine lenders looking for higher returns.

Presently in commercial property a shortage of debt for speculative development, and constrained debt for pre-let development and has meant that the market has had to turn much more to alternative equity based sources of finance. We are seeing an increasing appetite and interest in investing in development by a range of other capital sources. These include UK financial institutions, insurance companies, domestic and overseas pension funds, so called "opportunity funds" that generally seek higher returns, sovereign wealth funds and private overseas investors. Interestingly in London all the major office developments either underway or just beginning have a common characteristic; they are all going ahead on the basis of overseas finance and would not be happening otherwise. These overseas investors are more interested in doing Joint Venture arrangements, as they have no UK expertise so they team up with UK property companies or others. They are also principally interested in investing where they think the risks are low, in prime property, or in core markets, so we see most of this in London. Outside London this interest is much thinner on the ground.

## Overall Economic Outlook

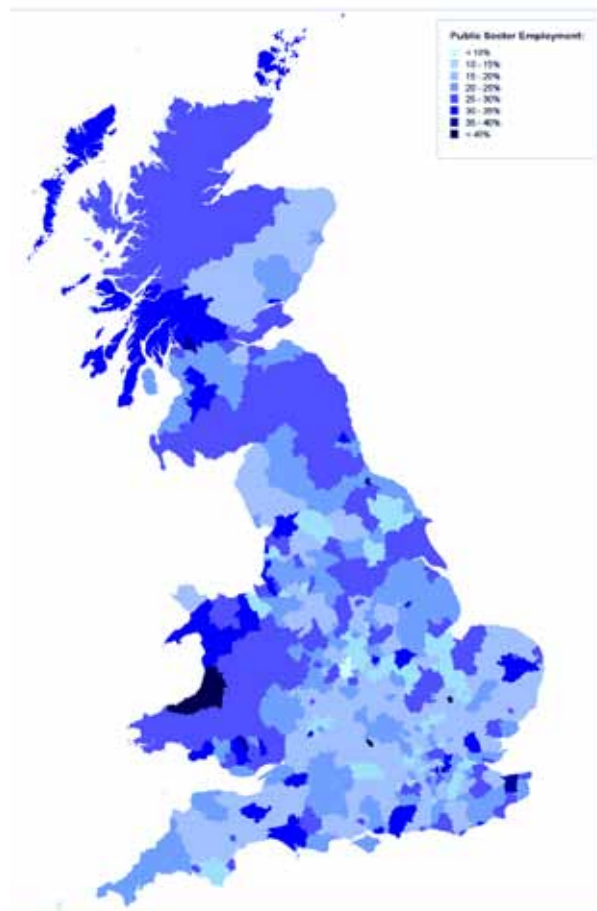
The really significant feature of the Office of Budget Responsibility's GDP forecast for the next year or two is the relative weakness of consumer spending and interestingly this is extending into the medium term.



Remembering the progressive implementation of the austerity programme, which will continue every year until the end of this parliament, that is maybe not surprising. So we are looking at

an economy showing a much lower growth rate in consumer spending compared to what we were used to in the decade up to 2007. I think that is one of the most important aspects of the economic environment.

In addition, the recovery is going to be very uneven with London and parts of the South East decoupling from the rest of the country. The employment outlook in particular for the UK regions looks extremely difficult and in terms of forecasts from Oxford Economics on when they will return to the 2008 level of employment, the prognosis for the West Midlands and the North East is particularly poor. Of course this is partly related to the high level of dependence on public sector employment in these areas.



But it is not just the issue of dependence on public sector employment; it is combined with widely differing capacities of varying local and regional economies to generate the private sector jobs that will be needed.

Against that background, what are our expectations for commercial property and rental values? The story is simply that in the office sector we think there will be a rental growth cycle but that will be predominantly be driven by London, and elsewhere will be a much more moderate picture. Across other sectors such as industrial and retail property there low rental growth outlook for the next 5 years, despite the shortages of new supply as there is so little development. Any rental growth

detected will almost certainly be in newer and better quality rental property rather than on the average.

### Sector Rental Value Growth

Offices driven by London cycle, low momentum elsewhere



Does recent Government policy, and the budget, make any difference to this outlook? We have probably already forgotten about a lot of it but there were a number of measures designed to stimulate growth, but most of them will probably be useful only at the margins, particularly the stamp duty change for residential investment which is an effort to get more private sector investment into housing. Of course we also have 21 new Enterprise Zones, although the incentives are minimal and there is a conflict between them favouring small businesses, whereas the Local Authorities want to attract the highest value developments as they get to keep the business rates. The other thing of course was the identification of Planning as a major obstacle to growth and this is to be dealt by a range of initiatives from re-visiting existing s106 agreements through to a presumption in favour of development. There is also to be local choice now on brownfield v greenfield, flexibility on conversions and land and planning consent auctions.

Is there not a fundamental contradiction here with a simultaneous promotion of the Localism agenda? I cannot answer that question but I did hear Mr Pickles recently say people had misunderstood what Localism was about; it is not about empowering local councillors but about empowering local people. I am not sure what he means here, or even if he does, but he seems to think that it means something.

So, against this background, the outlook key themes:

The future is in fact very uncertain;

We are in an environment of higher fuel and energy prices probably for quite some time;

- The economic drivers we had previously from public spending, high levels of debt and consumption are no longer working and the economy must be rebalanced towards business investment, innovation and exports;
- There will be major local and regional disparities in the recovery;
- The whole real estate finance regime has changed from a previous reliance on debt to a much more complex picture with a much wider range of more varied capital sources needing to be tapped.

## Local Authorities: Opportunities and Challenges

In this environment, with the removal of various tiers of Government and legislation, it seems that Government is seeking to give Local Authorities a much bigger potential role in economic development, which will be undoubtedly extremely challenging. There are clearly areas of opportunity, such as through the establishment of LEPs and the EZs, and through exploring possibilities for harnessing Tax Increment Financing, but this an environment in general where the issue of finance for development and investment in property in all sectors is in one way much more constrained and in other ways much more complex. It is no longer simply a case of a developer of going to one bank and seeking to raise the money. It is an environment where there is an increased emphasis on using public sector land and assets much more effectively and efficiently and in some ways rewardingly through disposals to raise money.

There are just two final points I would make about that:

This is definitely a time in this market where public authorities engaged in disposals into the development market should be looking to lock in and share in value uplifts from development.

Assets producing secure, long term and preferably inflation linked income, such as a Local Authority Headquarters on a very long term lease linked to the Consumer Price Index or with the rent linked to the RPI, are seeing no shortage of investor demand from the major insurance companies and fund managers, and public authorities in particular should be looking at their portfolios and seeking opportunities where they can create such assets.



## THE AUTHOR:

Antony Phillips heads Field Fisher Waterhouse's Real Estate Practice and is also head of their specialist Property Litigation Group. He also sits on the firm's Business Board. He is top rated in Chambers UK, which describes him as a "damned good lawyer", with his clients being impressed by his "commerciality and business-like approach". FFW's Property Litigation Group is ranked by Chambers UK as one of the top four groups in London.

Antony deals exclusively with contentious commercial property issues. This includes dilapidations claims, rent reviews and other landlord and tenant disputes, real property disputes (including covenants, easements and boundaries), contentious planning issues, property related insolvency issues and secured lending disputes. He acts for a number of public authorities (both local and central government) and has a particular interest in the challenges faced by property professionals in public authorities.

# PROPERTY LAW UPDATE AND LOOK AHEAD

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INTRODUCTION

LANDLORD'S REMEDIES  
ON TENANT'S INSOLVENCY

TENANT'S BREAKS

THE 1954 ACT

GREEN LEASES

COMPETITION LAW AND PROPERTY

ACES Spring Conference  
London, May 2011

ACES Paper No 11.05/2 by

**ANTONY PHILLIPS**

Head of Real Estate Field Fisher Waterhouse

## Introduction

This paper will cover the following:

- Landlord's remedies on tenant's insolvency; insolvencies are on the rise and the last two recessions have shown that they have tended to increase towards the end of the recession rather than during the earlier phases.
- Tenant's Breaks; at FFW we are currently managing over 20 tenant breaks, which are very topical for reasons which will be discussed.
- The 1954 Act; this is always topical; the tactics just change when the economy changes.
- Green leases; these were very much the 'darling' of three or four years ago, but have not completely gone away.
- Competition Law; if you do not know much about competition law and property you are about to find out much more over the next year or two.

## Landlord's remedies on tenant's insolvency

I intend to deal with commercial tenancies rather than residential, and will focus on administrations and liquidations.

**Administrations.** Once the tenant has gone into administration, you cannot take any action against it through the courts or recover possession through peaceable re-entry to recover possession or levy distress for rent. However, you can recover rent as an expense of the administration if the company remains in occupation after the administration. In those circumstances, the rent recoverable is only for the period that the company is in occupation.

So the first thing to do is to see if the tenant is still there and if the answer is yes, start demanding rent from the administrator. If they are not, and that is the most likely situation, you are not likely to get the rent, for the time being anyway, from your current tenant. One point to note, the administrator cannot disclaim the lease.

Local authorities are becoming much more aware, when granting leases, of the importance of ensuring that there are other covenants (such as guarantors) when granting lease to tenants (particularly if the tenant covenant is not strong). At a later stage, once rent is being pursued, there may be other covenants as well, such as previous tenants (subject to Covenants Act restrictions). Subtenants must also not be forgotten, as they can be pursued for rent if the tenant is not paying by serving notice on them requiring them to pay all future sub-rents to you (as the superior tenant). This can be a useful source of income if sub-rent is similar to the head rent.

Rent deposits must also not be forgotten – but once they are used up, they are unlikely to be topped up if the tenant is in administration.

**Liquidations.** The rules are similar for (compulsory) liquidations. Moratoriums on forfeiture, court proceedings and distress. In terms of other remedies (e.g. guarantors, previous tenants and sub-tenants), the rules are similar to those in relation to administrations.

One of the main differences between liquidations and administrations is disclaimers. Many liquidators will disclaim leases as an onerous contract. If they do not then the landlord might want to persuade them to do so or serve notice requiring the liquidator to either pay the rent or to disclaim the lease. The effect of a disclaimer is that the future liabilities of the two parties, the landlord and the tenant, are brought to an end. However, if there are other parties involved then the lease does not end; for example guarantors and former tenants or not released by a disclaimer. The same rule applies to the guarantors of former tenants. Sub tenants are slightly different. If the sub tenant does not perform the covenants in the head lease, not the sublease, then the landlord can forfeit that lease. This means that if the sub tenant wants to stay put, it has to perform the obligations in the head lease (and that means paying the head lease rent and not the sub-lease rent). I won't touch on vesting orders as that is a topic in itself.

## Tenant's Breaks

FFW are currently managing huge numbers of these because, in a falling market, many tenants are finding themselves in over-rented properties. Therefore, operating a break option (if there is one in the lease) means that to the tenant can either move out to other premises that are cheaper or renegotiate a deal on their current premises.

This is of importance to Local Authorities both as tenant and where the authority is the landlord. There are many pitfalls in achieving a break, which you can either use to your advantage as a landlord, or be very careful with if you are the tenant.

The terms of break clauses are construed very strictly and if you do not comply strictly with the provisions, then you do not break. Therefore first thing to do is serve notice. So the tenant must establish when and where you need to serve the notice. In terms of when, this may be 6 months, or it could be longer. Remember, if the notice period is 6 months and you give 5 months and 27 days notice, the break is ineffective (and it could be another 5 years, or longer, before you can break again)

Importantly once a break notice is served it cannot be withdrawn. As a tenant, it is therefore important to be sure you do want to break before you serve notice.

There are 3 categories of break notice

- 'Unconditional'
- 'Semi conditional' and
- 'Fully Conditional'

An 'unconditional' break still requires the service of a proper notice.

'Semi conditional' breaks are where there are some conditions to be fulfilled e.g. vacant possession and, often, payment of rent. Remember that the rent has to cover the whole period (i.e. the quarter) during which the break is effected unless there is an express apportionment provision in the lease. As with all other conditions, they must be complied with strictly if the break is to be effective.

'Fully conditional' breaks are the most problematic for the tenant. They either require 'material' compliance or 'full' compliance with all covenants in the lease. Full compliance means all covenants have to be complied with full – e.g. repair, decoration, re-instatement, rent, service charges, etc; everything. With full compliance, every single item needs to be dealt with. If not, then you do not break. Material compliance allows you some leeway if you do not do the job perfectly (but such can be almost as problematic to deal with).

**Practical points.** If you are tenant, plan in advance. We advise tenants to look at it well in advance as the break might, for example, have a 12-month notice period; and it might take 8 or 9 months to do the necessary work needed for full compliance. Also a tenant should try to work with the landlord. The landlord is under no obligation to talk to you, and often the landlord, initially, can be friendly and cooperative. However, this may be mislead – they could be lulling you into a false sense of security and, when it is too late to do the work, the landlord may require strict compliance. and I have seen this time and time again and then the tenant is stuck in the lease.

## The 1954 Act

I will deal now with security of tenure and a couple of topical tactics arising from the 1954 Act. The first one relates to Notices and the second relates to Interim Rent. These are the background rules.

A landlord may serve a Section 25 notice to bring a lease protected by the Act to an end. The notice must give between 6 and 12 months notice of termination of the lease, but cannot terminate the lease before the contractual expiry date. The landlord can oppose the granting of a new tenancy under one of the grounds prescribed by Section 30 subsection 1 of the Act.

Either party can apply to Court for the determination of any ground of opposition or in respect of the terms of the new lease.

A tenant can serve a Section 26 request requesting a new lease. Similar rules apply on timing - between 6 and 12 months notice must be given and such a date must not be before the contractual expiry date of the current lease. If the landlord wishes to oppose the granting of a new tenancy, it has 2 months to serve a counter notice (and, if it does so, it must specify one of the Section 30 grounds).

Either party can apply to court once a Section 26 notice and a counter notice has been served.

Crucially if a Section 25 notice has been served, a Section 26 notice cannot be served, and if a Section 26 notice has been served then a Section 25 cannot be.

**Some Tactics; Scenario 1.** The property is an outdated retail building, the term expired just under a year ago, the landlord is keen to re-develop and the tenant is keen to stay put. This is not unusual in a retail location that delivers a good trade. What should the landlord do?

The landlord needs to get on and serve a Section 25 notice with six months to terminate the tenancy and specify Ground (f) (redevelopment) as the ground for opposing the grant of a new tenancy. If the landlord is in a hurry, it can issue proceedings and put the tenant under pressure to provide the evidence and so on. Then the landlord has a 'sporting chance' of getting the tenant out in the 6 month period.

The position of a tenant is more complicated. If the tenant wants to stay in the property as long as possible and if it thinks the landlord is just about to serve a Section 25, it should get on and serve a Section 26 because you can then put a date 12 months in the future and buy yourself more time. Alternatively if you think the landlord is being dilatory and is not going to do anything, then you may just want to sit tight and see what happens.

**Some Tactics; Scenario 2.** This scenario deals with interim rent – this is the rent payable for a period after a notice/request is served until a new lease starts/the tenant vacates. The crucial thing about interim rent is that the trigger for paying interim rent is the service of a notice. Interim rent can be higher or lower than the lease rent and either a landlord or a tenant can apply for a determination by the court. An interim rent runs from 6 months after service of the notice/request. Therefore, if no notice/request is made, no interim rent is payable (and the tenant continues to pay the passing rent),,

The property is office premises in Central London; the lease ended at Christmas time and it is now June no notices have been served. The passing rent is higher than the market rent. What do you do as the landlord? As the landlord you do absolutely nothing as you are benefiting from the fact that the interim rent has not been triggered. As the tenant, get on and serve your notice as quickly as possible as you have already lost a few months of interim rent, and as you will not get an interim rent for another six months, the longer you leave it the less you benefit from it. Obviously precisely the opposite tactics apply in a rising market.

## Green Leases

About 3 or 4 years ago, everyone was talking about green leases and making extravagant but worthy claims about what green leases were going to achieve. Local Authorities were at the forefront of the movement, as were some developers who were either doing it because they felt it was important or because they thought it was going to be good for their PR. Then the recession hit and most stopped talking so much about green leases.

A green lease is one that encourages the parties to reduce the environmental impact of the premises. Whilst not a legal definition, it means is that the parties are trying to manage things like energy consumption, water management, waste management, sustainable materials, repairs and so on and operate the property and the business in a sustainable way.

But then, after the recession, the Carbon Reduction Commitment (CRC) gave a little more impetus to green leases. The CRC was a complex and exciting concept where you have a league table, you make payments, you get bonuses

and payments back depending where you are on the energy efficiency league table. This helped to keep the green lease concept going with the debate about how costs would be shared between landlord and tenant. Then along came the Comprehensive Spending Review that effectively turned CRC into a property tax and siphoned off any money coming out of it straight into the Government's coffers. Consequently this again meant that green leases were off the agenda.

However, given the right drafting, I predict that green leases will be back some time in the future.

## Competition Law and Property

**The 1998 Competition Act.** When this Act came into force it expressly excluded land agreements from anticompetitive behaviour, however, the 2004 Order changed all that and from April 2011 the Competition Act now applies to land agreements, with a few exceptions. So the Act does apply to most commercial property contracts - anything that creates or alters an interest in land is caught within the tightly drawn 1998 Act.

What might offend the 1998 Act? For example take the situation where you have a shopping centre that you want to extend whilst protecting the interests of existing tenants by retaining footfall in the older section and not merely transferring it to the new extension. One way to achieve this is to put in place restrictive covenants that restrict the type of shops that can locate in the new section. For example there might be a restriction on a newsagents opening in the new section of the shopping centre, as there is already one in the old part. Those kinds of covenants could offend the Competition Act as they restrict competition in the shopping centre.

**Impacts.** In the short term, where restrictive covenants are breached, it is likely that in their defence there will be a Competition Act point taken and there will be debate in the Court of Appeal and the House of Lords about how the Competition Act applies and whether it does afford a defence to that breach. There is the possibility of Office of Fair Trading (OFT) involvement. Whilst they can investigate private contacts, they OFT may be cautious about doing so given their other priorities. If they do become involved, then the provisions can be invalid and there can be fines levied in respect of any breaches.

At present, there is no jurisprudence as to how competition law will be applied to land agreements – so watch this space!

In the medium to long term, I think the Competition Act could have a very profound effect on the way we do business and indeed how leases and property contracts look in the future.



## THE AUTHOR:

Miles works with a range of clients on sustainability issues relating to their buildings and land, enabling them to meet sustainability objectives which are usually driven by corporate environmental targets, wider corporate responsibility strategies, regulatory initiatives and business efficiencies.

Miles' clients include both public and private sector landlords, occupiers and developers, as well as regulators. He combines his role as a sustainability consultant with those as:

- Chairman of the Investment Property Forum's Sustainability Interest Group
- Chairman of the UK Green Building Council's Policy Committee
- A member of the British Council for Offices Environmental Sustainability Group
- A member of the Green Property Alliance.

Between 1994 and 2005, Miles was a Senior Lecturer at Oxford Brookes University, where he spent 11 years researching, teaching and undertaking consultancy work on property sustainability issues as well as helping the University to address its own environmental management.

# SUSTAINABLE BUILDINGS: FUTURE CHALLENGES & OPPORTUNITIES

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## CONTENTS:

- WHAT IS THE APPETITE FOR 'GREEN' IN OUR SECTOR?
- HOW IMPORTANT IS SUSTAINABILITY TO OCCUPIERS?
- GREEN POLICY DRIVERS
- PROPERTY VALUE IMPLICATIONS OF THE GREEN AGENDA
- IMPLICATIONS FOR PEOPLE IN LOCAL AUTHORITIES

ACES Spring Conference  
London, May 2011

ACES Paper No 11.05/3 by

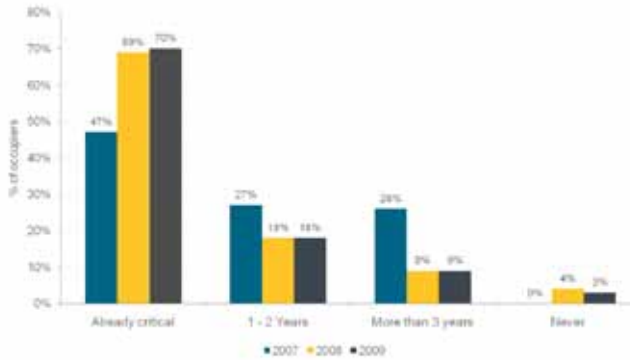
## MILES KEEPING

Director and Head of Sustainability  
at property consultancy GVA

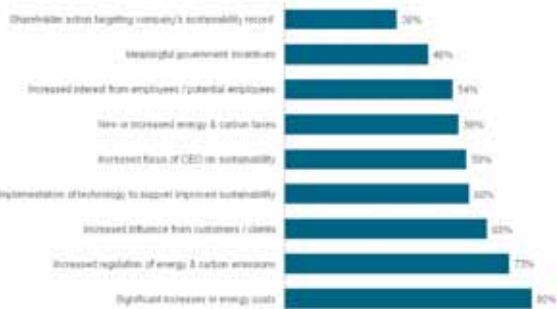
## What is the Appetite for 'Green' in our Sector?

In the good days of the property market, it was often said that people in my position as a Head of Sustainability would have been at risk of losing their job in a recession. However, my view was always that sustainability should be about conservatism, both in terms of resources and in terms of money. I am pleased to say that it seems to be the case that this has not yet gone off the agenda.

In 2007 almost half of people thought that sustainability was already critical to occupational decision making, but as the recession started to bite that leapt up quite significantly, which underlines that this should be about being conservative with both natural and financial resources and about being conservative about decisions as well.



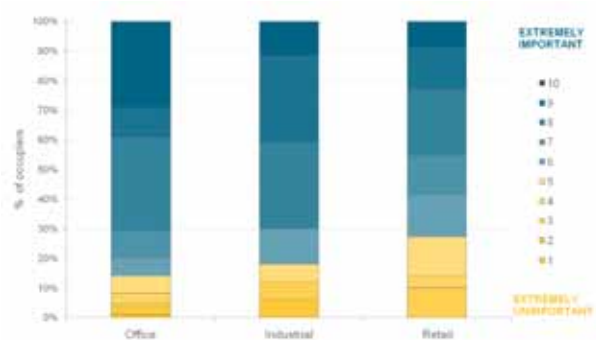
There are a whole range of different drivers that make sustainability even more important to people. In the research shown here, nearly three quarters of respondents said that increased regulation of energy and carbon emissions was a key driver, with significant increases in energy costs being another.



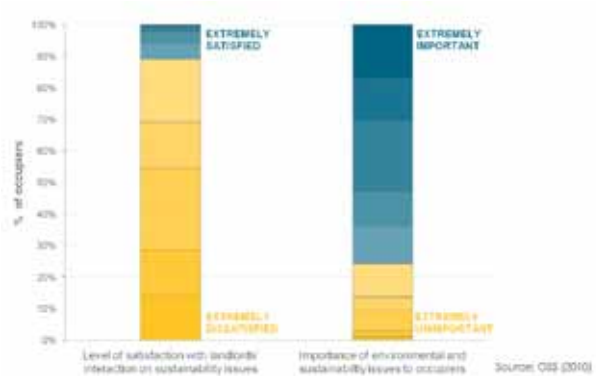
## How important is sustainability to occupiers?

The evidence from the last occupier satisfaction survey shows that of all the issues that arose eg levels of rent, condition of property, service charges etc, responses around the issue of

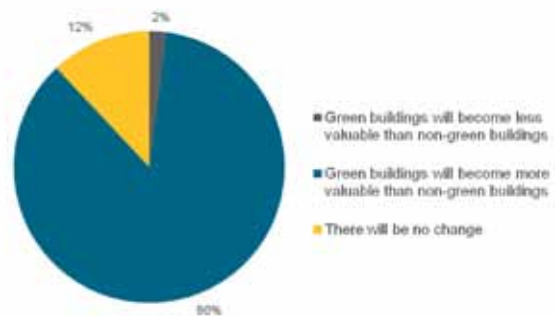
sustainability seemed to generate most interest. And occupiers in the office sector showed more interest in sustainability than those in industrial and retail sectors.



There is a gulf between the level of importance placed on sustainability by occupiers, which is very high, and the level of satisfaction with landlord's performance on the issue, which is perceived to be very low.



This is interesting when you consider that 88% of landlords think that green buildings will become more valuable than non-green buildings.



The reasons are that landlords and investors think this because:

- Tenant retention is better
- Void periods are shorter
- Rents can sometimes be higher
- Rental growth is stronger
- Depreciation rates are slower; and
- Assets are more liquid.

Is there any market evidence for this in future? One landlord with several billions of pounds worth of property assets is currently rolling out green leases for as many as his occupiers as he possibly can, because for him green leases are about being conservative and finding savings in carbon, savings in waste generation and savings in money.

## Green Policy Drivers

There is a vast array of green policy drivers at both the national and European level and a lot of regulation already in place. The pace of change is also incredibly fast.

The key items are:

- CRC Energy Efficiency Scheme
- EPCs & DEC's
- Green Deal
- Part L
- Carbon Zero
- Carbon reporting requirements

These items include a number of different issues that will affect us all. They give us a number of key messages as to where we are going to be in terms of policy in the future and what that means for us here and now and how we deal with the management of our estates.

**The CRC Energy Efficiency Scheme** This has become simpler as Government is no longer giving any money back but will retain keep it all, but this does show that it is going to become increasingly expensive to be unsustainable.

**Energy Performance Certificates and Display Energy Certificates** In future these will become applicable to more buildings, both in the private sphere and, as is already the case for DEC's, the public sphere. DEC's will also become applicable to much smaller buildings in the public sphere than was the case previously. This tells us that is increasingly going to be important that we are transparent at the building level about how much our buildings our costing us in carbon and also financial terms.

**The Green Deal** Whereas in the past we all assumed that this applied particularly to people in homes and to SME's, this is not necessarily now the case and could in fact apply to any size of organisation. Many large property owners do not feel that this is particularly attractive as they have access to cheaper finance than the green deal providers can provide.

**Part L of the Building Regulations (dealing with thermal efficiency)** Part L is increasingly being modified and the new version from 2013 onwards will again require another 25-30% increase in carbon efficiency of buildings to be compliant, and

the amended regulations will apply to existing buildings where there are consequential improvements and not only to new build. Therefore where buildings are extended or improved the new version of Part L kicks in to embrace the efficiency off the whole of the building and not just the extended part.

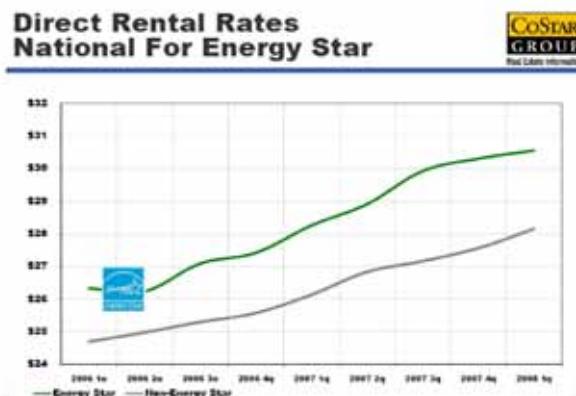
**Carbon Zero** Despite difficulties in defining this, and with the timescale already extending beyond the then Minister Alistair Darling's original date of 2018 for when all new buildings should be 'carbon zero', we are moving inexorably towards a situation where all new buildings will be 'Carbon Zero', however that may be defined.

**Carbon Reporting Requirements** Both public and private organisations will be required to report on the amount of carbon that they are responsible for emitting. This will have a significant implication as far as we in property are concerned as around half of the carbon emitted in this country comes from the way we occupy and use buildings.

In conclusion what does this tell us? It remains to be seen whether the Coalition Government will be the 'greenest Government ever' as they claim, but the amount of political intent that is coming out of Westminster as far as green issues are concerned is significant and supported with more regulations.

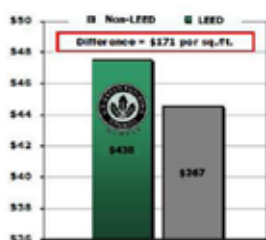
## Value Implications

Does green value exist? There have been a number of studies of varying degrees of quality on the issue and the results are confusing for those who know quite a lot about this and utterly baffling for those people that know very little. But there is a perception that green buildings should have some kind of premium attached to them, whether that is through rental premium or capital value premium. Data from the USA shows that green buildings are considered to have better rental rates.



Although such a high differential as that seen below is questionable.

## Sales Price / Square Foot – LEED Rated Buildings Nationally



Sustainability will increasingly have to be built into the valuation process and then we might begin to see some kind of premium emerging from the evidence.



When we think about risk adjustment or the risk premium, if, as landlords and occupiers are telling us, there is greater marketability around green buildings then we might want to consider the implications on the yield attached to a property. If we want to think about the issue of growth in the yield, we might want to think about longer-term attractiveness of properties. One characteristic of a green building might be that it is more robust against obsolescence than other buildings; particularly regulatory obsolescence and that will of course have an implication as far as depreciation is concerned as well.

## Implications for Your Estate

One of the things that I am increasingly working on, and particularly with clients in the public sector, is to define what is the Authority's Corporate Sustainability Policy. And once we have found it then we can we try to see how it is translated into property decision-making? Often the asset managers in both public and private organisations have limited awareness of their own Corporate Sustainability Policy, but this increasingly something that they will have to think about given the environmental impact of buildings and the increasing amount of regulation.

How does a corporate sustainability policy for a local Authority translate into property decision-making around disposals? How market ready is a property in sustainability terms. How liquid is that asset? Remember what landlords were telling us about greener buildings being more liquid and saleable more quickly. What about procurement of property? What

about the due diligence investigations that are undertaken when you are procuring a property? And the sustainability risks attached to procuring new property? Does your regular due diligence survey work encompass those sorts of risks, analyse them and monetise them? If you are working in joint ventures or collaboratively, what are your partner's objectives? When we think about carbon savings, how will you prioritise? You will increasingly be pressurised to save carbon; how does that fit into your estate strategy? There is also the issue of cost savings. I believe the issue of carbon and cost savings should go hand in hand. If they do not then something is wrong with your sustainability strategy and also the way that you are implementing sustainability objectives.

## Conclusion

On a final note, beware of restructuring from an intellectual capital point of view in an organisation. The brain drain as a result of restructuring in respect of property market knowledge may be counterproductive in the long term. Also, one of the most important things that you can get your teams to do in the future is to make sure that you gather good carbon, energy use and financial data. It is difficult but becoming ever more important.



# ASSET



## THE AUTHOR:

Anthony is a Senior Director at chartered surveyors BNP Paribas Real Estate, leading one of the industry's longest established affordable housing consultancy teams. He is a specialist in development economics, financial modelling and valuation, and advises clients in the public and private sectors on a range of affordable housing issues. He has recently advised local authority and developer clients on major strategic residential developments in London (e.g. New Wembley, Stratford City) and Bristol (Stoke Gifford), providing a total of circa 33,000 housing units. His team is currently advising London Borough of Wandsworth on the redevelopment proposals at Battersea Power Station.

In 2009, Anthony was appointed to the RICS panel, Expert Advisors in Planning Service, to advise the Planning Inspectorate on affordable housing viability evidence submitted by local authorities at Local Development Framework examinations. He has recently completed assessments of viability studies at Stockton, Hinckley & Bosworth and East North Northants.

# PLANNING AND VIABILITY: DELIVERING AFFORDABLE HOUSING IN CHALLENGING MARKET CONDITIONS

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AFFORDABLE RENT TENURE

WILL THIS NEW TENURE HELP THOSE IN GENUINE NEED OF AFFORDABLE HOUSING?

VIABILITY AND APPEALS

ACES Spring Conference  
London, May 2011

ACES Paper No 11.05/4 by

## DR. ANTHONY LEE

Senior Director BNP Paribas Real Estate

## Affordable housing

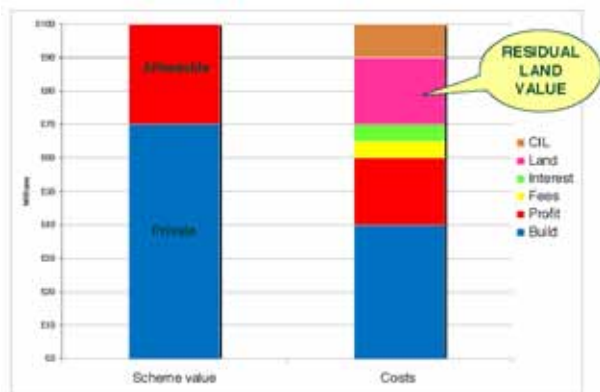
This is clearly a priority for Local Authorities. More and more affordable housing has been delivered through the Planning system and s106 agreements but, as a result of falling house prices, that system is now very much under pressure. Increasingly we now see the Planning system mediating between the various interest groups in development, such as landowners, developers and Planners themselves as representative of a body that wants to secure part of the value of a scheme. Any scheme has value and that value needs to meet a number of requirements for any scheme to go ahead.

The costs of a scheme are as follows:

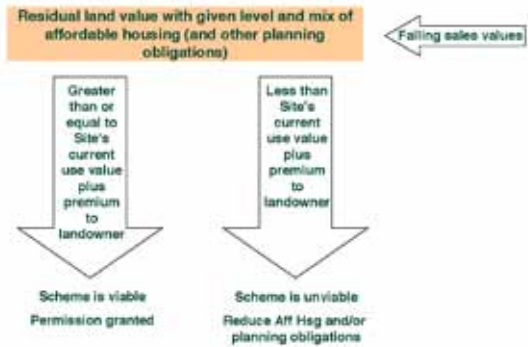
- The cost to build the scheme;
- The profit to the developer;
- Fees and interest charges to go to the bank or lenders
- The financial contribution towards infrastructure / affordable housing;
- The value of the land. If there is no land value to bring the site forward, it will not come forward.

## Viability

The planning system is grappling with those issues when at a time when scheme value is falling. The planning system will define viability by reference to the residual value of the scheme with any given level of affordable housing at hopefully target levels and any other planning obligations. It is then considered whether or not that residual value is greater than or less than the value of the site in its current use. So if the scheme exceeds that test then the scheme will proceed. If not then the scheme will not proceed and you will need to reduce the affordable housing or other planning obligations.



With falling sales values, more sites become unviable and so require a reduction in affordable housing unlike viable sites that meet policy requirements.



## House Prices

The potential for planners to capture land value is currently difficult given the significant fall in house prices in London and throughout the UK.



House prices saw a significant increase up to 2007, a significant fall in 2008 and then a recovery from the middle of 2009. Even with the recovery now going flat, we are still in a better position than at the time of the Lehman Brothers collapse.

Nevertheless it is a patchy recovery. The London Boroughs of Islington and Newham are still attracting buyers strongly due to a number of factors including its central location to the city. Newham on the other hand has seen a lesser recovery with, possibly, a slight reverse from last year.



So the recovery across London is consistent and the picture outside London is different again. Some areas such as the

North East have seen no recovery whereas in Yorkshire and Humber and the Northwest only a slight recovery has taken place.



It is therefore difficult to make schemes work outside London.

## Foundations of the Recovery

Is this recovery built on solid foundations? If we look at sales volumes we can see that historically sale volumes were much higher. Current sale volumes are insufficient to show that the market has recovered strongly and it is likely that sale volumes will continue in their current fashion over the next couple of years until we see volumes increasing again.



## Build Costs

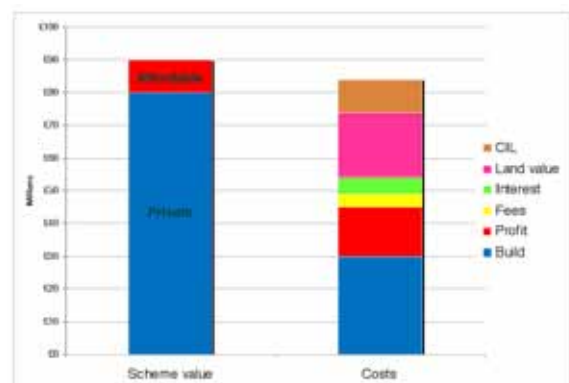
On the other hand viability has been aided to some degree by the fall in build costs as contractors have cut their margins and profits to secure work. This has helped to partly offset the fall in sales values and to help schemes proceed. The RICS is predicting a slight increase in build costs over the next few years but that does not take into account the cost irregularity in terms of the Code for Sustainable Homes, anything of that nature would increase costs even further. But then we also need to consider that the commercial value of sites has also increased. The value of commercial sites has followed a similar pattern to residential values in that they fell and started to rise again.



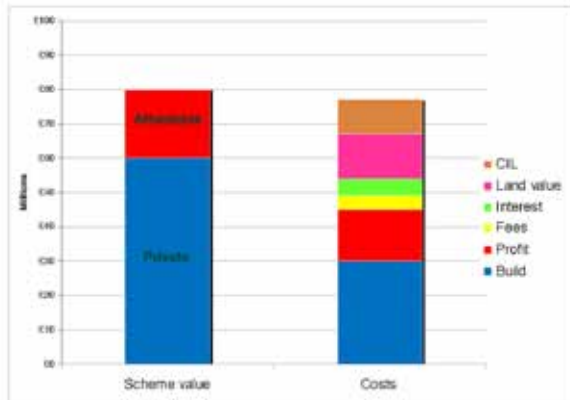
Focussing on the blue shaded area the value of all other types of use that might come forward as residential sites is also increasing so retaining those uses is becoming more attractive again and the driver to convert to residential may be less strong. This will present difficulties for planners in securing sites for residential at the values they need to be at.

## How are Local Planning Authorities reacting?

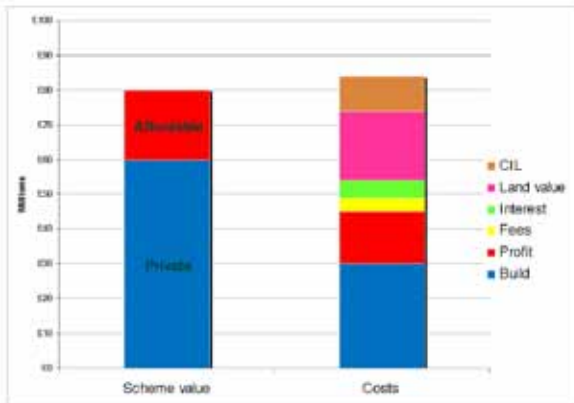
LPA's are being told by Greg Clarke to renegotiate all those S106 requirements that are making schemes unviable and preventing development from proceeding. I would argue that it is the lack of finance rather than S106 requirements that has been preventing development. How can an LPA respond? Well the obvious thing to do is to look at the affordable housing level in those schemes, in order to improve the scheme's viability and bring things back into balance.



The difficulty is that this increases the risk of the scheme as you have got more to sell which is clearly undesirable for Local Authorities. Alternatively the developer could be encouraged to accept a reduction in the land value.



That may be possible on a greenfield site where there is no alternative use as opposed to on brown field where the opposite would most probably be true. Finally what you could do is look at decreasing the financial contributions for CIL if you have it, although this does have its own negative implications.



Local Authorities are saying, quite fairly, that if they forgive planning obligations then they should share in any upside of that scheme. There is whole range of examples where policy requirements are being applied more flexibly to reflect the change in values.

## Deferred / Contingent Obligations

With these obligations there are a number of points to consider. For a single phase scheme there is only the option to review before the scheme has started, but in schemes with multiple phases it may be possible to look again after the first phase to determine how to proceed with the latter phases. You would need to think about when you would review scheme viability and what the trigger points are. There are many points where you could review, each with its own benefits and problems. It would also be necessary to think about how long a review should last before it is discarded and reviewed again. For example, it might be put to the developer that if they do not proceed within a year, they must allow the LPA to consider if anything has changed.

In that scenario, consider what the minimum and maximum affordable housing levels might be. An option could be to agree

with the developer to reduce the requirement for affordable housing in the first phases of a development, and to build in the capacity to require that the amount can be increased, over policy levels, in the later phases so that the overall required level is attained.

## Cascades and Fountains

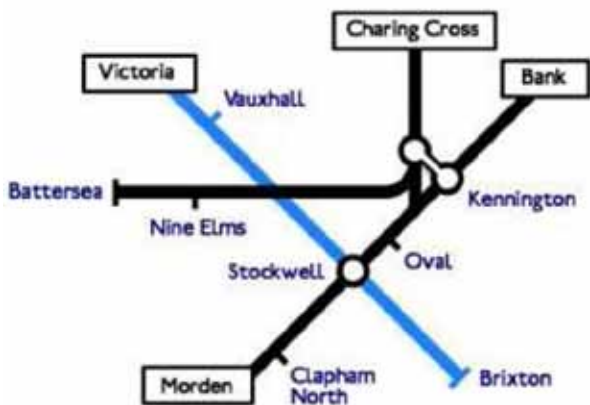
These are related to grant funding. Grant funding has now gone, so the idea that we had a 'cascade' where we start with one level of affordable housing and this would come down if the level of grant decreased, has ceased to exist. Instead, there is now a 'fountain' situation where we fix the level without grant and then increase the affordable housing requirement if, by some miracle, grant does later become available.

## Case Studies

The Leamouth Peninsular is one example of where policy is being implemented flexibly by the London Borough of Tower Hamlets to allow a developer to provide a limited amount of affordable housing on the initial phase of the site so the scheme retains viability. However, if the trigger level is reached in subsequent phases whereby the value of the development has increased then the developer will provide a cash contribution to the Authority to provide affordable housing in other parts of the Borough.

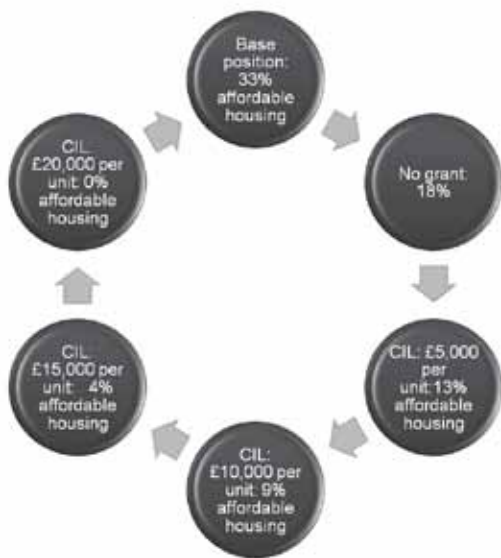


The Battersea Power Station redevelopment is an example of where the timing of obligations is important. The key to this success of this scheme is the Northern Line extension that will serve the site. Without this the scheme is compromised as the commercial elements will probably not be let and the residential sales values may be at risk. There are a number of parties involved in this discussion including Treasury UK, the investors who will fund the scheme, the London Borough of Wandsworth and Transport for London. They share a common interest to maximise the value of that scheme as that unlocks finance from the investors, unlocks the Treasury holdings and secures affordable housing and S106 payments for Wandsworth. The party that benefits least from this scheme is TfL that says that whilst they will deliver the Northern Line extension, they are not going to put the money up front. The Treasury and the investors on the other hand argue that paying upfront will not result in an acceptable IRR so there is a stalemate between these parties in terms of when that money is delivered.



Within that context it is important to say that there are many competing demands from schemes from the Planning system but we cannot always meet all those needs at all times. For example there will always be tension between delivering infrastructure and delivering affordable housing.

Here we have a hypothetical scheme.

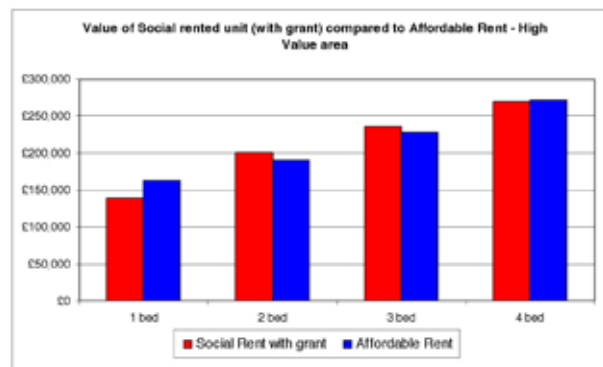


We start with that scheme delivering 33% affordable housing as the base position at the top. If you were to take the grant away you are down to 18% of affordable housing already before we even start to introduce infrastructure requirements and then as we go round what we are doing is imposing increasing levels of CIL with the result that the potential for those schemes to deliver affordable housing becomes ever more eroded until eventually you squeeze out the potential for affordable housing altogether. In future the idea that it is possible to secure everything we need from development is clearly going to be challenging. In terms of Government reforms for affordable housing, it is important to question at this point the type of affordable housing that authorities want and need and whether the new system will deliver?

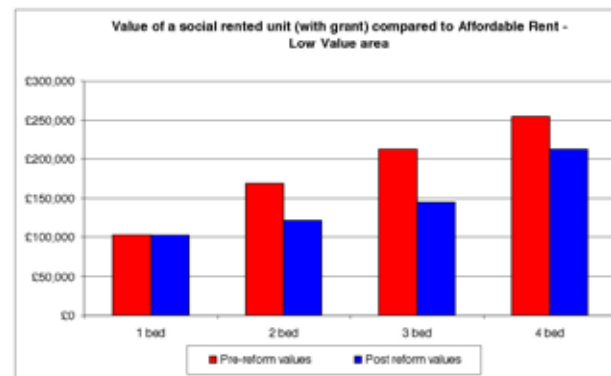
## Affordable Rent Tenure

In February 2011 Government announced an affordable housing programme framework for the next 5 years to guide affordable housing delivery through the RSL sector and the planning system. Government says that it expects to not to any grant for schemes delivered through S106 agreements but they expect the RSLs who acquire this job from developers to pay the value of the rental stream and nothing more. RSLs are therefore being expected by Government to increase the rents for affordable housing in some cases to up to 80% of market rent, whereas at the moment affordable housing rents tend to be around 40-50% of market rents; clearly a very significant increase.

Will this still provide viability for affordable housing schemes? The answer is 'yes but no but', and if we look at the current system (social rent with grant).

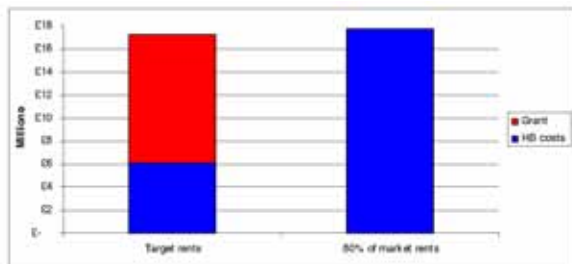


And then compare that to what would happen under the new Affordable Rent tenure we can see that in high value areas, where Tower Hamlets would be typical, the value the RSL would pay under the old system compared to the new is more or less the same. However, as soon as we move out of Central London to the outlying boroughs and beyond we can see that the values the RSL would pay under the new system compared to the old will fall substantially. This will certainly affect the level that affordable housing schemes can provide, a big concern for Local Authorities in those areas.



To compound that there will be possible future changes and Government might possibly roll back from where they are at

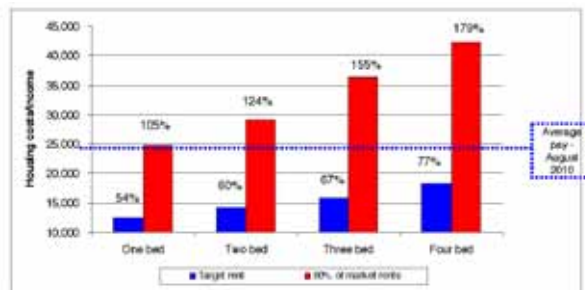
the moment. Yes we will save money on grant funding, and the RSL stock becomes more valuable because the rent is higher and so the capacity to borrow from the private sector increases. But the long term cost of what Government is doing, and if compare the cost of upfront funding to the long term cost of Housing Benefit, which will inevitably increase, it is apparent that more difficulties lie ahead.



The left hand side of this chart shows the cost over a 20-year period of the old system of target rents paid largely through Housing Benefit and upfront grant subsidy from Government. We see that on a 100 unit scheme the cost is around £17million, but then if you compare that to the cost over the same period of the new Affordable Rent tenure we can see that the cost is almost the same. The result is that Government does not save any money, but is effectively storing up a problem, as there are potentially 2.24 million existing tenancies that might transfer over to these higher rents, largely backed by Housing Benefit that could lead to an explosion in the Housing Benefit bill. This creates problems for viability and may have to be rolled back in future.

## Will this new tenure help those in genuine need of affordable housing?

If we consider that rents will increase threefold in many cases, the income level you need to pay that level of rent, without benefit support, will clearly be much higher and we need to consider that Government is capping Housing Benefit claims to £26,000 per household per annum so if your rent was, for example, £20,000 per annum for your family home it does not leave much to pay other bills and for food. I do not think that many Local Authorities in high value areas will accept rents at 80% of market rent therefore who is this new tenure for? Clearly it is not for people in the most urgent housing need. The question is, and the graph underlines this point, under the current target rents you need to be earning 54% of average earnings in order to pay the rent on a one bedroom flat, but under the new system you would need to be earning 105% of average earnings to afford the same flat and the problem becomes worse with family housing; for a 4 bed flat you needed to be earning 77% of average earnings before, but that goes up to £179% of average earnings on the new tenure.



## Viability and Appeals

Many schemes go to appeal and Inspectors can effectively set precedents through their decisions. Some schemes have gone to appeal offering zero affordable housing, for example

154 -160 Croydon Road The inspector argued that policy 30.10 of The London Plan is subject to viability; therefore if a developer proves that no affordable housing is viable that can be deemed policy compliant. In this particular case the scheme value was less than existing use value so the Inspector concluded that there was no justification for a requirement for 35% affordable housing and the scheme proceeded with zero affordable housing.

516 – 520 Commercial Road The Inspector here took a completely contrary view on the question of affordable housing and said that the developer had bought the site at the peak of the market and it was not for the Planning system to unwind the developer's problem that they had got themselves into. The Inspector saw that the scheme was unviable with or without affordable housing so therefore all removing the affordable housing would do is make the loss slightly lower so he took the view that he may as well grant consent but require some level of affordable housing. The Secretary of State often has to mitigate between these issues of affordability and viability so whose side is he on?

Ram Brewery, Wandsworth (November 2009) Under the former Labour Government the Secretary of State took the view that 11% was simply too far below the lowest level of the policy aim in Wandsworth so therefore it did not comply with the aims of the LDF and could not be granted.

Goldhawk Road, Hammersmith (October 2010) Mr Pickles, the current Conservative Secretary of State, took the view that that whilst in excess of 6% affordable housing at that scheme was preferable, the appellant proved that 6% was all that can be afforded, and therefore that is the maximum amount the scheme can reasonably provide. It is interesting to consider whether Planning Inspectors are shifting their views on viability as the recession has gone on and many are dealing with a proposition put to them by Local Authorities, i.e. Cannot we simply wait until we have a better market condition when the scheme can provide more affordable housing?

High Wycombe (May 2009) The appellant argued that Council would not have a 5-year land supply if affordable housing were required on every site. The Inspector thought there was

a healthy land supply (historically) and therefore there was no urgent need for the appeal site to come forward.

Banbury Park, Waltham Forest (October 2010) Both parties agreed this was a strategic site and therefore important that development goes ahead but both parties also agreed there was a lack of viability. The council's own borough wide study said that 20% was the maximum viability amount for affordable housing but on this particular appeal site the level was at 40% so by taking this approach they would simply have switched off all the land supply across the borough. The decision has not yet been reached so it will be interesting to see what happens.

## Conclusions

Clearly affordable housing needs are will never be fully satisfied through the Planning System. There will always be a greater need than can be supplied and the challenge is to try to strike the balance between viability and maximising affordable housing supply as it is clear that we cannot tap the landowner for unlimited requirements of both affordable housing and payments for infrastructure. It is essential to recognise that there is only one pot to be shared out amongst all the parties. In the current market, the short term capacity to meet all the Local Authorities' requirements will be limited so a balance needs to be struck between affordable housing and other payments. In my view the Affordable Rent tenure will not be the answer to the problems raised by lack of grant and may not be the answer for Local Authorities who are trying to meet housing needs.

Finally it is important to stress that flexibility from all parties will be key to delivery.



# ASSET



## THE AUTHOR:

Andrew Altman commenced his role as Chief Executive of the Olympic Park Legacy Company in August 2009. Over the next 25 years the Company will plan, develop and manage the Olympic Park in East London to become, in time, a new and prosperous area of London - a lasting legacy from the 2012 Olympic and Paralympic Games.

Andrew's previous appointment was as Philadelphia's first Deputy Mayor for Planning and Economic Development and Director of Commerce – tasked with bringing together all the planning and economic development functions of the city. Prior to this role Andrew was the President of Altman Development LLC in New York City. His company worked on behalf of Lubert Adler Management to lead large-scale, urban development projects. Previously, he was the first President and CEO of the Anacostia Waterfront Corporation in Washington, D.C., established to guide the revitalization of over 2800 acres of urban waterfront. Andrew also served in the cabinet at Washington, as head of the city's planning agency where he led the Anacostia Waterfront Initiative from its inception. He moved there from the City of Oakland, California where he was the Director of City Planning and Manager of Comprehensive Planning for the City of Oakland, California, from 1995-1999.

## THE QUEEN ELIZABETH OLYMPIC PARK – OLYMPIC LEGACY

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REGENERATION

WHAT WILL THE PARK BE LIKE?

WHAT WILL LEGACY SUCCESS LOOK LIKE?

WHAT SUCCESS WILL LOOK LIKE IN 2013?

ACES Spring Conference  
London, May 2011

ACES Paper No 11.05/5 by

## ANDREW ALTMAN

Chief Executive, Olympic Park Legacy Company

## Introduction

This paper aims to provide a brief overview of the progress of development currently taking place in the Queen Elizabeth Olympic Park.

## Geography and Connectivity

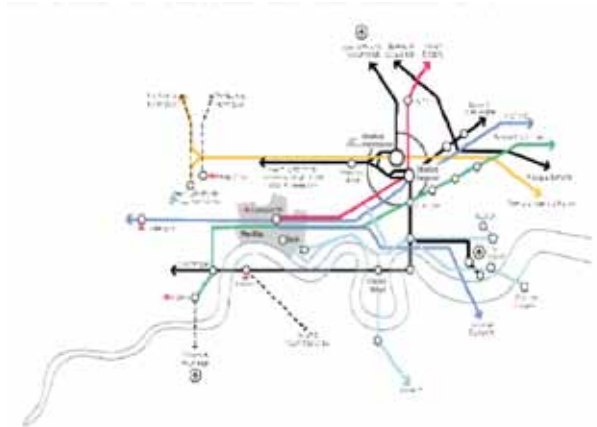
To give you a sense of geography, the Olympic Park is not far out in East London as many people think, but it is actually remarkably central and easily accessible.



The development of the Olympic Park is perhaps one of the most important current global projects and is testament to some farsighted ideas and vision about the future of London and how to use something like the Olympics to spur such a massive infrastructure project. To give you an idea of the scale of the development, £6 billion is being spent on site in a concentrated period of about 5 years and an entire city is emerging on 500 acres of land.

London's growth is increasingly moving east and is estimated that 25% of London's growth will be to the east as the population rises from 7 to 8 million people over the next few years. Indeed, London's growth has steadily been moving east for a number of years, originally with the development of Canary Wharf, then moving onto Greenwich and now with the Olympics this march eastward is set to continue.

The Olympic Park development differs from many regeneration projects in that it is built on transport. The a mistake made by many other cities was acquiring a site, putting in Olympic venues and then hoping the infrastructure will come. Here the Queen Elizabeth Olympic Park actually sits on top of an already well developed and connected transport network which is having more than £500 million being spent on upgrades to connect east London with the city, the region and beyond, and which will see Stratford become the fourth busiest transport centre in London.



The Olympic Park is surrounded by four London Boroughs and the goal is that this site does not become an island but actually becomes very well connected to the East London communities it is adjacent to.



## Regeneration

The overarching goal of the Olympic project was to achieve the successful regeneration of a large swathe of East London. The project has brought forward more regeneration than would have happened otherwise. A Compulsory Purchase Order was used to bring over 200 different land ownerships into one public ownership. Originally the site was largely composed of a combination of junkyards, factories, munitions dumps and overhead wires and the like all of which had to be remediated before building the Olympic Park could begin. On completion the previously polluted industrial wasteland will contain 100 hectares of open space.

Historically, what was the inspiration for this? Consider the large-scale cultural projects that have already been done successfully in London and have left a positive and lasting impact on the city, for example the South Bank Exhibition, the Festival of Britain and Exhibition Road. The much loved cultural facilities which stand on the South Bank today are now regarded as the centre of London, although when they were built this area was very much the periphery of the city.

The Olympic Park is the modern version of this legacy of using cultural events to spur regeneration and the Olympics will, hopefully, leave the same imprint on East London as these other events did on their geographical settings. The development is also built on the great tradition of London Parks, and the Olympic Park will not only create open space, but also real estate value for the entire area.

The Park is also unique in that it contains enough land in public ownership to be able to build a city of the type that makes London so attractive and unique on a large scale. Streets, squares and terraces are what differentiates London from many cities of a comparable size and the Olympic Park development provides the opportunities to build the larger types of houses that are sorely needed in London but are difficult to develop because of the economic challenges provided by land value and the need to take a longer term view.



The Olympic park is seen as a celebration of a great sporting event, but in legacy is set to become a great destination in its own right that will eventually provide, post games, up to 12,000 units of residential accommodation and housing for a new town of 35,000 - 40,000 people. The master plan sees 5 new communities being built in and around the Olympic Park in addition to the athlete's village in what will effectively become another piece of city.

The major themes for the development of the Olympic Park site are:

- Housing

- Connection
- Jobs and Opportunity
- Using the site's natural assets.

## What will the Park be like?

The Park is already starting to look very green. The north will be quieter, more residential and contain such things as bike trails. It is roughly the size of St. James Park.



The south of the Park is the main Olympic site. This contains most of the architectural buildings and will be promoted as the new cultural destination; the place where major events take place. It is also the place for high-density residential development as it will be the waterfront neighbourhood. Also this is where we are building East London's own version of the Eiffel Tower, the ArcelorMittal Orbit which, whether you love it or hate it, will afford great views of the Olympic Park and London and draw in millions of visitors who will pay to go to the observation deck at the top.



The feel and scale for much of the waterside development will be similar to walking the canals in Islington. There will

be a mixture of densities and crescents of houses of housing between 4-6 stories that will border the Park to provide the familiar landscape of London neighbourhoods.

Development partners are currently being lined up for the transformation of the park after the Games, and there is a naming competition underway for the new communities. Stratford Village will be the first of these new neighbourhoods to be completed.

## What will legacy success look like?

The scale of development is impressive on its own, but most importantly the private sector has invested in addition to the public sector. Westfield, for example, has already developed the largest urban shopping mall in Europe with over 200,000 square feet of development containing over 300 stores, entertainment venues, two hotels and an office building. This will open before the games, but starting the project almost 3 years ago involved enormous risk, although just recently about half of their investment has been purchased by Canadian pension funds; an extraordinary vote of confidence in Stratford and East London.

Furthermore, there is tremendous interest in the athlete's village with 3 significant investors lined up. The venues are also attracting the interest of private operators and many house builders are now interested in the first phase of family housing. Overall there is already a lot of momentum in terms of private investment that has been given leverage by the public lead.

## What success will look like in 2013?

For us as the Olympic Park Legacy Company what happens after the show is where the work really gets underway. After the event the Park will close for 8 to 10 months whilst temporary structures are taken down and the development platforms are created ready to complete the Park and get everything ready to re-open in 2013 when the venues will be fully operational and the first residents move into the athlete's village.

For us, success looks like:

- An anchor tenant in the stadium;
- Tenants for the million square foot broadcast centre secured;
- Operators for venues;
- Animation for the park taking place i.e. events and festivals;
- Having developers on site for the first phase of development.

The key to success is maintaining momentum and continuing to attract investment and people to the area and using this is to continue to create the jobs and opportunities that the Olympic Park will generate.

Fundamentally it is about changing the perception of and continuing the regeneration of East London.



# ASSET



## THE AUTHOR:

John currently works for Horsham District Council in West Sussex heading a small Estates team of 4 persons managing and overseeing a diverse portfolio of Corporate, Miscellaneous Commercial, Leisure, Community and Residential Property, sitting on various Project Groups. Having joined in 1988 with the intention of leaving after 3 years or so he has enjoyed the last 20 years in a challenging role within one of the most proactive and dynamic District Councils in the South East that has seen the transformation of Horsham Town through a series of innovative development schemes together with continual development opportunities within the outlying Villages that still continues apace despite the current economic climate. In recent years John has been Secretary and Chairman of the South East Branch of ACES.

## ACES AWARD FOR EXCELLENCE WINNER

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CONCLUSION

ACES Spring Conference  
London, May 2011

ACES Paper No 11.05/6 by

## JOHN LOXLEY

Estate Management & Valuation  
Surveyor, Horsham District Council

## Introduction

I am honoured and proud to be presented with the ACES Award for Excellence in Asset Management in the Public Sector. It was a result of a submission I made about the development of a new health centre by Horsham District Council on behalf of the NHS in 2008. I do think that the individual nature of the award should not detract from the fact that invariably no single person has sole responsibility for the success of the scheme that more often than not involved a project team that owed its success to the sum of its parts. In September 2010 I made an informal presentation to the South East branch of ACES on the development of Steyning Health Centre, primarily because of what was important to us in 2008, in terms of the need to be creative and innovative in increasing the Council's revenue budget to enter into partnerships and adopt a collaborative approach, is so relevant today. The buzzword of collaborative working is merely a by-product of communication and information sharing that we should all be doing anyway.

## Context

Steyning is found in the SE corner of Horsham District at the base of the South Downs in West Sussex. Horsham District, within West Sussex is largely rural with one main town of Horsham with a population of 46,000. Steyning is one of the larger villages with a population of 5810. This gives an idea of the small population that this health centre serves.



I was a member of the working group established to procure the development of the health centre from the initial partnership concept and eventually to:

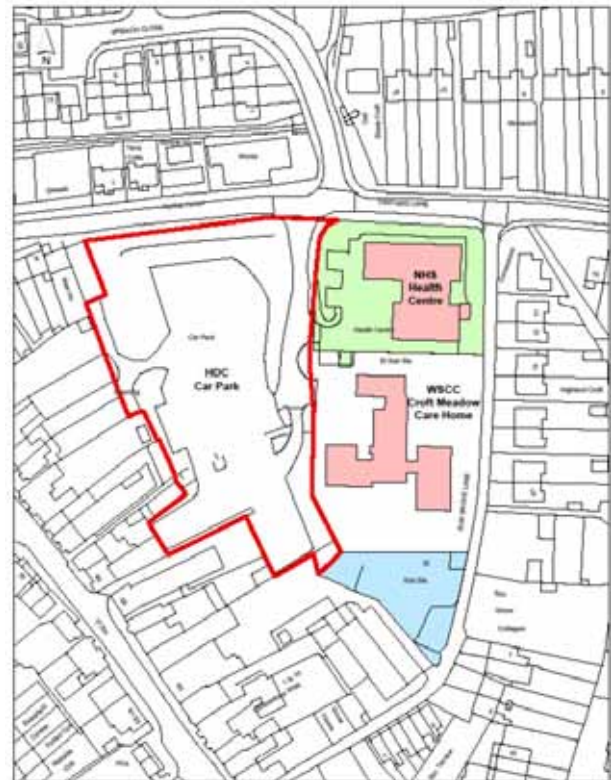
- Facilitate the construction of a temporary health centre on a nearby car park;
- Negotiate the terms of acquisition of the Site and Development Agreement with the PCT NHS Trust;
- Open a dialogue with the County Council owners of the adjoining Care Home redevelopment project to resolve critical issues relating to the single access and boundary changes to ensure both developments could proceed

independently as the schemes began to run in parallel; and

- Reach mutually acceptable solutions to rationalise Services access to both Sites.

## Initial Drivers

In 2006 the NHS had a requirement to replace and expand 20 year old single storey Health Centre at Steyning with a modern Health Centre to meet the community profile needs. Both sites including the health centre owned by the NHS and the West Sussex County Council Croft Meadow Care home shared one access.



Legend HDC land edged red and coloured blue, Health Centre Site coloured green

The initial drivers for the collaborative approach to the project were:

- From the District Council's point of view under the "Corporate Plan Healthy Safe & Strong Communities - Commitment for promoting Healthy Lifestyles, Health Care & Leisure Opportunities," they had been able to forge a good long term working relationship with the NHS.
- HDC was debt free but low interest rates and future requirement for increased income meant a need for secure investment outlets.
- The NHS could not fund local doctors' aspirations and private Trust requirements for an Alternative Therapy Suite. Building had increased from 1200m<sup>2</sup> to 2000m<sup>2</sup>.
- The NHS PCT approached Horsham DC as a "preferred partner" rather than proceed with Sale and Leaseback PFI

scheme (LIFT) that was too expensive having considered offers from a number of developers.

- This followed a recent successful partnership scheme in 2004 with Horsham DC at Southwater Health Centre as part of a £20 million village centre redevelopment scheme.
- HDC acted as broker before offering to finance the Steyning Health Centre scheme provided it received 6.5% return on cost.

Originally the PCT came looking for gap funding but after a long meeting which reached stalemate it was only a passing remark as the outgoing Chief Executive was going out of the door ie “the only thing that we could possibly take on board would be to actually finance the whole scheme and have a 6.5% return.” That formed the basis of the development agreement.

## Joint Development Agreement

The proposed Joint Development Agreement that came out of the meeting encompassed the following:

- £4.64m funding by HDC from PWLB (Public Works Loan Board) loan approved January 2006;
- Acquisition of Freehold by HDC of PCT NHS Site for £700,000 endorsed by District Valuer acting for both parties, for Audit purposes due to off market transaction. To complete by March 2006 to fund temporary relocation;
- Grant of 24 year Lease to PCT NHS Trust at £327,500pa with 3yr Rent Reviews. (6.5% of Capital Cost). (Rental agreed by District Valuer);
- HDC to act as Employer and PCT as Employer’s Agent;
- Grant to PCT NHS Trust of Licence at Fletchers Croft Car Park for Temporary Health Centre for 18 months; and
- HDC to recover VAT of circa £581,000 as Employer reducing capital cost to £4.06m

## Scheme Benefits

The benefits of the scheme were as follows:

- Cheaper rent from HDC rather than PFI Provider;
- Cheaper to build because HDC did not require 20% Developer’s profit;
- HDC to recover its financial investment within the initial 24 yr lease term (PWLB loan was for 50 years);
- HDC to benefit from Capital and Income growth from a “blue chip” covenant; and
- The finalised Development Agreement mitigated most, if not all, risk to HDC as far as possible.

## Planning and Design Challenges

The scheme itself raised a number of planning and design challenges:



- Conflicting Rights of Way from WSCC garages over Health Centre Parking area which was unsatisfactory;
- Probable conflict between two construction projects running in parallel with potential contractual claims for delays etc.
- Need to maintain access for other property at all times. Potential litigation.
- Requirement by Planners to lower foundations and roof of Health Centre meant retaining walls and impossible gradients at entrance.
- Need for new upgraded sub station with only one suitable location between the properties.

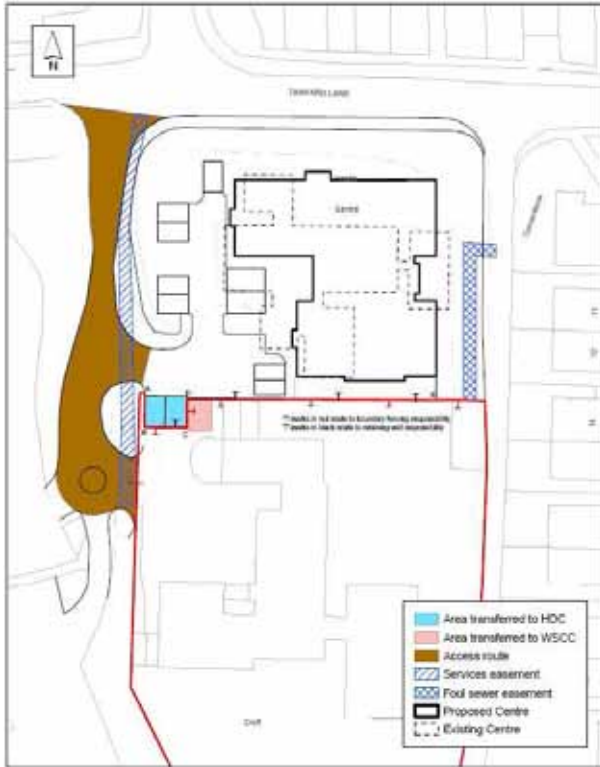
## Solutions

- As a development group it was proposed that we:
- Open up a dialogue with WSCC to rationalise the boundary and agree a type acceptable to both parties;
- Open up a dialogue with the architects that for some time had been working in considerable isolation;
- Work to extinguish the conflicting Rights of Way.
- Seek alternative access to Care Home Site at higher level more suitable for ambulance and disabled access.
- Work to avoid potential conflict between two sites during construction works and thus reduce costly contractual delays.

## Amended Access Arrangements

- The outcome of our discussions with the County Council resulted in an agreement to reconfigure the entrance to create separate entrances and split the cost;

- The entrance to the Care Home was served by a mini roundabout at a higher level that also served the entrance and exit to the HDC Car Park;
- The scope of the Building Contract was extended and the easement works were carried out without any delay;
- The new entrance works were undertaken under 'Deemed Planning Consent' to avoid undue delays in the Building Contract.



## Sub Station Positioning

WSCC required services easements and ducting across HDC land for energy, water supplies and sewer connections so an opportunity was taken to agree a position of the Sub Station within the new boundary detail in order to future proof the electricity supply to the adjoining Care Home. The Substation was subsequently constructed with a proviso that should WSCC wish to utilise the upgraded supply in the future it would pay 50% of the historic cost of the Sub Station. The repositioned substation some 4m by 4m by 2.5metres was agreed by Planners as a minor amendment to the existing Permission. It was the only feasible position available.



## Scheme Completion

- The Health Centre was completed in August 2008.
- The Care Home demolition and works commenced 2nd January 2008.
- There was a 7 month overlap but with separate accesses there was no conflict between the schemes.

## Outcomes for the NHS / PCT

- New Modern replacement 2045 sq. metre building.
- Met its long/medium term objectives.
- A Doctors Practice
- Surgery
- Consulting and treatment Rooms
- Physiotherapy Unit
- Complementary Therapy Unit
- Speech and Language Therapy Unit
- Pharmacy
- Offices
- Dentistry Services (NHS).
- Cheaper Rental overhead than would otherwise have been charged under PFI scheme.

## Outcomes for Horsham District Council

- Guaranteed Investment Income of 6.5% on capital spend.
- Valuable asset producing rental and capital growth from a "blue chip" covenant.
- Complies with Corporate Plan objectives.
- Improved access and road infrastructure to entrance of public car park, Health Centre and Care Home.
- Completed on time and within budget.

## Outcomes for West Sussex County Council

- New Care Home finished on time without major delays or conflict with adjoining Health Centre development.
- Much improved access in safety terms.
- Much improved boundary detail and access.
- Future proofed alternative electricity supply if required at a later date.

## Conclusion

The completion of the building in August 2008 demonstrates the benefit of partnership working between HDC and the NHS to fund and procure the construction in a way that created savings on the overall cost of a high quality build project. The excellent working relationship and collaboration between HDC and WSCC as adjoining land owners, undertaking separate building projects at the same time helped to resolve critical difficulties in respect of power supply, services and access. It assisted the rationalisation of the entrances to the mutual benefit of all parties in providing a safer access environment to the Health Centre, Care Home and Council's Car Park.

The collaborative approach is no different to that which is now being heavily promoted throughout the Public Sector Organisations and provides a great example of why such opportunities should be grasped wherever possible.

The new emphasis of Collaboration between Government Agencies and Local Authorities reinforces what HDC has been doing over the last couple of decades and will hopefully realise opportunities that in the past may have not have been the automatic choice. It is important for any collaborative approach to work, however, that benefits must accrue to all parties concerned.



# ASSET



## THE AUTHOR:

First employment post attained since graduating. Prior to writing the research document Maxim was employed by various architect firms as an assistant on numerous community and housing buildings. He is currently designing and developing various workspaces/fit out projects primarily based in the city of London. Max was supported in this project by a steering group of Federation of Corporate Real Estate members and an ACES representative.

## BUILDING THE BUSINESS CASE FOR FLEXIBLE WORKING

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### CONTENTS:

KEY QUESTIONS

EASTBOURNE COUNCIL

ENFIELD COUNCIL

LEWISHAM COUNCIL

OGILVY HEALTHWORLD

BT BRENTWOOD

SEVERN TRENT

ACES Spring Conference  
London, May 2011

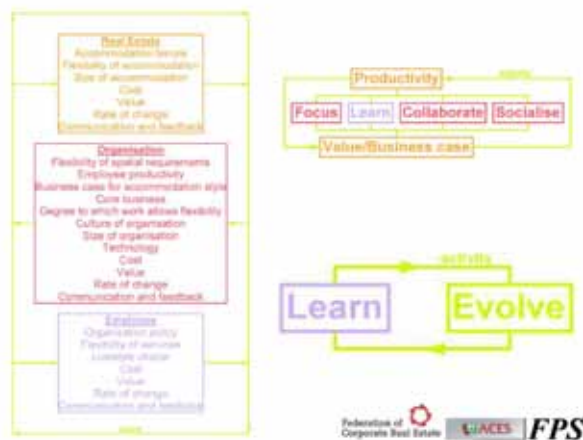
ACES Paper No 11.05/7 by

**MAXIM TAYLOR**

Architectural Assistant, Masters of  
Architecture graduate 2010

From an architecture perspective, assessing how a building is used post completion has been interesting to observe, especially with respect to optimising the building and appropriating it for different uses, both with the private sector and the public sector. At the start of this research project I was new to the idea of property rationalisation and the starting point for me was to research how an organisation justifies rationalising their estate purely by looking at the spending by businesses. If we look at the breakdown of costs with regards to what organisations tend to spend we can see that workforce salary is the biggest expenditure and so it is important to think about your workforce when rationalising your property assets. Whilst cost reduction is especially important in property, it must not be done in a way that does stifle productivity and the general smooth running of an organisation.

When I was looking at flexible working, not a one size fits all approach, I realised that it was important to assess what an organisation wants to achieve from flexible working and implement it through thorough analysis. To put this in an economic context, as there is no definitive direction in which the economy is heading, I think that flexible working is applicable to both organisations that are trying to either expand or to consolidate their services. When I was trying to understand flexible working and how an organisation could potentially try to implement it, I looked at an organisation in its holistic sense, which is the real estate where people work, the organisation which is their core business and the employee that implements the directions from senior management. When implementing flexible working it is important to maintain productivity, which is why the productivity is the business case as it adds value to the organisation. Because we are in an age where we have greater knowledge amongst our workforce, and if we look at the university figures it is a lot more informed and knowledgeable, it is important to implement “learning and evolve” from learning and the most successful work rationalisation schemes that I have looked at almost self-rationalise after they have been implemented.



## Key Questions

The key research questions were whether property rationalisation could provide a platform for an organisation to:

- Meet long-term strategic goals
- Generate operational savings
- Optimise the performance of the organisation
- Enhance the distribution of resources; and
- Engineer integration and collaboration from its human resource.

The question, as this applies to property, is how can rationalisation help address short-term operational costs without hindering future growth? It is somewhat paradoxical in a sense that property rationalisation is not about property but about people.

The methodology that we used to ascertain what was done in practice was to interview and to look into 5 public and 5 private sector organisations and assess new flexible working applications in practice as opposed to just theorising about it. We assessed their

- Attitudes to flexible working from senior management
- The interactive working environment
- The cost of buildings and infrastructure such as ICT
- Value, i.e. the long term issues affecting the organisation which are intrinsically linked to productivity; and
- Learning experiences to be applied generally

Presented in this report are 6 case studies from a mixture of public and private sector organisations:

## Eastbourne Council



Key issue Placing the right staff in the right location. The council wanted to transfer its staff from 3 leasehold buildings into one, implement a “touch down” working practice and create a central office hub to facilitate exchange between field and office based staff.

## Costs

- £900k fit out cost
- £450k upgrading the building’s energy efficiency

- £1m ICT fit out
- £0 capital receipts as all buildings leasehold
- £2.35m net expenditure
- £33k projected revenue savings per annum

Payback Period Approximately 7 years.

## Enfield Council

Key issue The need to reduce surplus property. The Council occupied 11 buildings and wanted to release 7 of these and consolidate into the remaining 4 properties. The council achieved a desk to staff ratio of 8:10 from 1:1 and is hoping to make further reductions to 7:10.

## Costs

- £1.2m fit out costs including furniture and office moves.
- £1.3m laptop costs and ICT infrastructure
- £2.5m potential capital receipts from sale of existing assets
- £0 net expenditure
- £1m revenue savings to date

Payback Period Approximately 2 years

## Lewisham Council



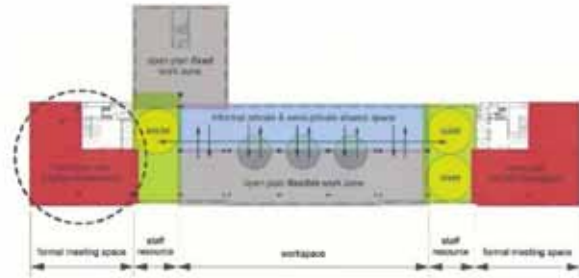
Key issue: The need to reduce surplus property. This was one of the more established flexible working schemes and was established in 2005. A substantial amount was spent on fit out and ICT.

## Costs

- £3.8m fit out and ICT
- £7.3m capital receipts
- £0 net expenditure
- £1.1m revenue savings to date

Payback Period Approximately 6.5 years.

## Ogilvy Healthworld



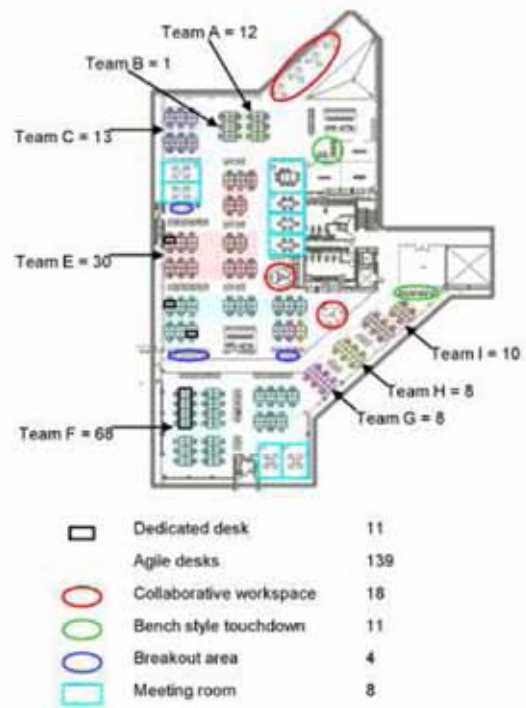
Key Issues: The need to increase workspace density for an expanding workforce and The desire to increase opportunities for relationship building. The project saw the re-design and fit out of a 1000sqft office to achieve a 25.1% increase in the occupancy density from 139 to 174. The project was heavily design consultancy led and saw major savings compared with the total cost of moving to a new and larger building with higher rental charges.

## Costs

- £166k total costs
- £0 capital receipts
- £166k net expenditure
- £135k per annum revenue savings

Payback Period 1.25 years

## BT Brentwood



Key Issue: The need to reduce property costs and increase the

under utilisation of the asset. The project saw the organisation condense its activities to the East wing of the building and to increase the utilisation of the building by approximately 80%. The outcome was the release of 6,000sqm of office space to let out, a reduction in fixed allocated desks from 88% to 32%, an increase in shared desks from 12% to 68% and a desk sharing ratio of 1.5 people per desk.

## Costs

- £100k per annum
- £0 capital receipts
- £100k per annum net expenditure
- £1.35m projected revenue savings plus rental savings per annum

Payback Period 0.25 years

## Severn Trent

Key Issue: The need for “future proofing” in ever changing economic trends and The desire to establish a new permanent HQ (freehold building). The project saw the company consolidate from 7 “central” buildings to one central hub. The organisation was forced to act rapidly by the expiry of leases on rental buildings. The new HQ building was part financed by grant funding, which was an incentive to invest in Coventry. The project also saw the downsizing of the workforce from 1700 to 1500.

## Costs

- £16.6m land cost
- £12m fit out, IT and changes of personnel costs
- £40m construction cost
- £45m capital receipts (grant and sale of existing buildings)
- £23.6m net expenditure
- £200k per annum projected revenue savings

Payback Period: N/A

## Outcomes

The outcomes of the projects featured above demonstrate that there are many benefits to be attained from flexible working and property rationalisation. Their implementation saw each of the organisations achieve the following outcomes:

## Cost Incentives

- Average annual revenue savings of £530k
- Average capital receipts of £4.7m
- Average payback period of 3.5 years

## Direction and Strategy

The project was an inflection point for positive change within the organisations, and resulted in a renewed and energised

workforce and the alignment of strategic and tactical objectives for the organisation.

## Optimisation of Service

Each organisation achieved improved workflow patterns, increased efficiency and better service delivery.

## Integration and Collaboration

Rationalisation led to increased employee interaction that facilitated better communication, the transfer of skills and information, enhanced team working and a reduction in the duplication of work.

## Intangible Value

In addition to the measurable material benefits, the implementation of a flexible working and property rationalisation strategy also has a number of intangible benefits:

- A clear and consistent policy that provides clear strategic structure to the organisation
- Increased employee satisfaction
- Reduction in grievance and employee frustration
- Reduced absenteeism and sick pay
- Reduction in employee turnover
- Improved brand value for the organisation; and
- Productivity gains from having the right people in the right place.

## Workspace Rationalisation Types

There are 3 key workspace rationalisation types:

Type 1 Consolidation of services

- 1-2 years implementation period
- £2m average project cost
- Revenue savings of approximately £200-300k
- Payback period of typically 5 years, but can be shorter

Type 2 Resource Optimisation

- Implementation period under one year
- Revenue savings depend largely on property (£150k - £1.35m)
- Project cost typically less than £500k
- Rapid payback period typically under a year

Type 3 Investment in Central Hub

- 3-5 years implementation period
- Large capital expenditure projects upwards of £20m
- Low revenue savings to project cost ratio (typically £200-300k)
- Long payback period

## Conclusion

In conclusion, property rationalisation allows organisations to establish and review long term strategic goals, generate operational savings, optimise the performance of the organisation, enhance the utilisation factor of resources and engineer integration and collaboration from its human resource.

The key and overriding goal is to address short-term operational costs whilst preparing for the future.



# ASSET



## THE AUTHOR:

Susan Lynch has spent 25 years advising public sector clients including Local Authorities on identifying and realising the development potential of all types of land and buildings.

Her projects and client base are wide ranging – new settlements, city centre retail and mixed use schemes, and employment based regeneration developments on both green and brown field sites. The majority of these involve structuring partnerships between the public sector promoters and private sector developers.



## THE AUTHOR:

Rob joined Drivers Jonas in 1991 and led DJ's Strategic Consulting team for the past 8 years.

A valuer by background, Rob's major area of focus is providing property advice to occupiers in the private and public sectors, the latter across local government, health, education, police & security services, central government and arts & culture.

Rob specialises in bridging service delivery needs and real estate solutions, not least in local government. This is provided through estate strategy advice, estate rationalisation, asset management planning, workplace advice and outsourcing (such as LABVs) – backed up by logical and objective appraisal processes, including financial modelling, 'Green Book' option appraisals and business case expertise.

The current challenge is how local government property can support radically changing operating models, whilst cutting costs, releasing capital, maintaining revenue and contributing to carbon reduction commitments.

# LOCAL GOVERNMENT TRANSFORMATION AND ITS IMPLICATIONS FOR PROPERTY

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CONCLUSION

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ACES Paper No 11.05/8 by

**SUSAN LYNCH**

Drivers Jonas Deloitte

**ROB COLLEY**

Drivers Jonas Deloitte

## Reorganisation of Property Assets in the Context of Changing Service Delivery and the Cost Reduction Agenda, Rob Colley

Firstly I will deal with organisational transformation and increasing efficiency. The chart below, "Drivers for Change" sets out the problem. On the one hand there is reduced funding, from Government funding cuts or the impact of the recession on investment properties, ie lower capital receipts or investment income. On the demand side there are rising expectations from service delivery departments and service users are putting pressure on the delivery of public services and response time. There is also growing demand as a result of the recession, unemployment for example, and also changing demographics as the population ages and lives longer. Therefore there is a real need to innovate and create a sustainable model for delivering services through what will be a long period of adjustment.



## Opportunities for Cost Reduction

There are many opportunities for cost reduction and in some respects it should be business as usual for estate practitioners as the whole plethora of activities is not just about one single hit. From workplace transformation, and playing a more assertive and proactive role as estate services managers in reducing uninformed demand for property, we are more and more advising estate clients to instigate a corporate landlord function that can then be more assertive about uses of space by services and challenge services about the space that they need and why they need it. All property should be centralised, as service users are only temporary custodians rather than owners of it. Rationalisation of surplus properties means that rather than having small pockets of surplus space dotted all over the estate, useful areas can be created that can be released into the market. Now is a good time, despite the general difficulties of the property market to get the Local Government property into the market before Government gets its act together and starts flooding markets with its own surplus space. Local Government has about a year's advantage to get ahead.

Other opportunities for cost reduction include real estate headcount reduction; for example outsourcing lower value aspects of the organisation's estates function and improving processes and systems to increase staff productivity to therefore allow a headcount reduction, strategic property sourcing and financial restructuring. The latter may include not simply disposing of properties straight into the market, but maybe employing more sophisticated models, especially when we know that there is big institutional interest in public sector property.

The level of cuts can be likened to a tree. If you are just reducing by 5% then you are only trimming the branches, but once you are talking about 15 to 20% reductions then it is a root and branch approach. We are not just talking about changing the operation of facilities management and day-to-day property services. We have in mind looking at the size and shape of the organisation too; so reducing the space occupied and optimising that in terms of the operating model.

**Cost reduction – not just pruning at the edges**

Beyond a certain level, the shape of occupancy has to change



There is a focus on cuts but it is important to say that there is more that could be done, for example in optimising income and service delivery and using property as a platform for improved service delivery. Reducing the amount of space to release budgets or reduce actual expenditure from maintenance, facilities management and utilities, carbon management etc. is important. It is also important to optimise the release of space through Joint Ventures and Asset Backed Vehicles and to create a flexible core estate to deal with the changing environment and future uncertainty. To get the best out of a smaller estate it is also important to consider strategy and investment in the IT infrastructure as well as property.

**Not just about cuts!**

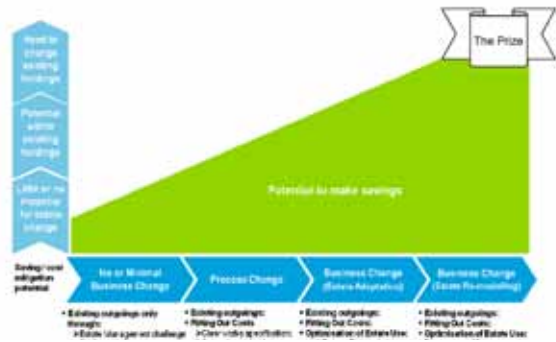
Service delivery and income optimisation are important too



What we are trying to do is match organisational transformation and change to the management structure to the organisation and shape of the estate being managed. The combination of

these two activities will maximise the savings and improve the quality of space.

**Business Transformation**



To give a human analogy, over the last decades, the public sector has grown fat on new projects and new programmes. It has added new properties, buildings and leases to its estate without trimming. The analogy is that we (the public sector) is a bit over weight and whilst we can lose weight, it is not just about losing weight quickly, as with a crash diet it is so easy to put that weight back on again. The key is to work out how you reduce weight and build strength, improve flexibility and deal with the psychological side. It is easy in the current climate to get depressed about all this change and the changing operating models, but the positive side of the change and transformation of space is that it will improve workspace and morale generally. It is more than cutting and reducing space; it is building up a healthy estate.

I think it is incumbent upon property professionals to ask fundamental questions of the occupiers they serve. That is are there the right number of people? Are they in the right place? Are they delivering the right services in the right mode? Does the organisation need to deliver these services at all? What does that mean for the estate? Keep asking these basic questions as more and more in property it is all about unlocking some of those difficult conversations that are going on.

Just to reinforce the difference between size and shape. Size is about the number of people you have. Shape is about how they are organised.

**Comparing organisational size and shape**

	Size	Shape
Key question	How many people?	How are they organised?
Includes	Not just core staff Agency and temporary workers Contractors and consultants Commissioned providers	Not just structure Governance arrangements Performance management Cultural norms
Articulation	Simple: Headcount and numbers	Complex: Concepts and models
How size and shape interact	We need to reduce headcount	How are we going to act differently to achieve that?
	How does that impact our staffing and property needs?	We need to operate differently
Focus	Cost reduction Revised headcount	Organisational design and systems Revised number of employees

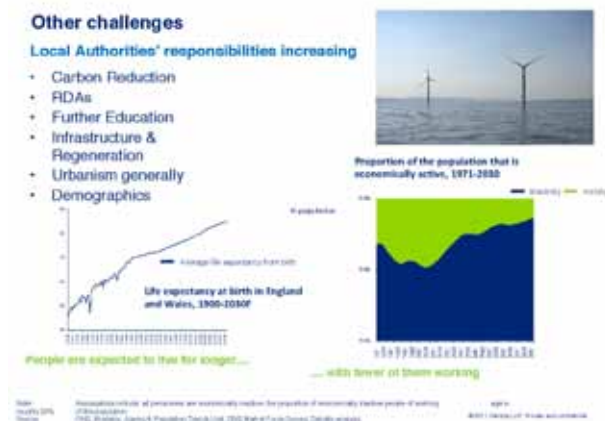
And it is not just about the core staff, but also about consultants and agency staff. They take up space as well. And shape means more than just structure; it is also about governance arrangements, performance management and

the whole culture of the organisation. We need to work on the interaction between shape and size to improve the estate and reduce running costs.

A key factor is local collaboration, not only with the users of your facilities, but also with your neighbours in the public sector. Whether you call it Total Place, Place Based Budgeting or Localism, it is really important to talk to colleagues in Police, Fire, Ambulance, Education, Central Government and other occupiers and begin to map out what you have locally. We are surprised at how few conversations have been going on in the past but some of these frozen relationships are now breaking down so it is well worth establishing a local property tier with some simple information about who, what, where and how they occupy.

Mechanisms for sharing the benefits can be somewhat complicated. We are aware of some towns and cities where they have established a property group or forum. This is really business driven but property can act as the catalyst for the wider discussions. For example, we are currently working with a police authority on a custody suite and that is enabling a discussion with a neighbouring authority on that issue, but that will help raise many other issues about, for example, collaborative models and the outsourcing of to the private sector.

It is also important to remember that there are other issues to deal with, for example carbon reduction, cost reduction as carbon pricing takes effect, the abolition of the LDA, further education and BSF, and the whole wider remit of social infrastructure, regeneration, and the increasing tendency of urbanism and the increasing density of towns and cities and the impact of demographics.



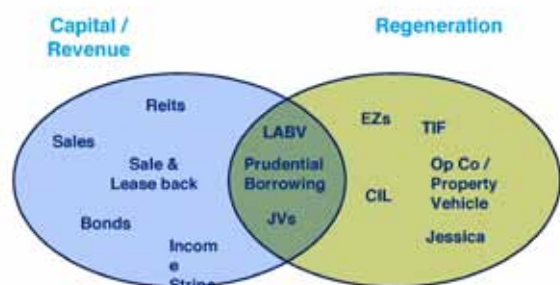
Finally be clear about priorities. Are you considering individual buildings and the portfolio as a whole in the context of historic service delivery rather than future service delivery? Are you really going all out for capital receipts or are there other issues that may result in a lower capital receipt whilst achieving wider social objectives? If so it is important to be clear about why you are doing that. There is, of course, always a political dimension but the role of the property professional should focus on fundamentals, dealing with the property challenge of why you have what you have where it is and, importantly, creating and maintaining dialogue within your own Authority and with others.

## Practical Use of Property Assets to Meet Authorities' Wider Objectives, Susan Lynch

I intend to deal with some of the ways that we are working with Authorities across the country to get the most out of their property assets through facing up to some of the above challenges, whilst recognising that we are still, unfortunately, in the worst property recession most of us have ever known.

The property market is in bad shape but there are some pockets of activity, which is encouraging. We had a tender last week for a pretty average development opportunity in central London and we got 3 times as many bids as we would have received 12 months ago. More activity is taking place and in particular we are seeing it in the town centre areas where developers and retailers are looking at opportunities again, which is also encouraging. I think that Local Authorities still have a key role to play there. It is not all doom and gloom and if you look at the available options for maximising the values of what you have got whilst in some ways they are a bit baffling, but on close inspection the mechanisms fall within 2 overlapping categories: the things that you can do to generate capital revenue; and the things that you can do to encourage regeneration and economic development. In addition, there are other actions you can take that fall somewhere in the middle and can do both.

Use of Property Assets – understanding priorities



Overlaying all that you have the morass of procurement, how to involve the private sector and the issue of state aid; it is not all straightforward but there are lots of opportunities out there.

## Releasing Value from Property Assets

How do you generate value from your estate? As ever it is a fine line to balance realising capital whilst maintaining your income flow and not over-committing yourself on income as well. We have to strike those balances. We are still seeing some sale and leasebacks, particularly on new accommodation, but I think a lot of Authorities are hesitating as they do not know what the shape of their organisation will be in 3, 4 or 5 years' time; so why make a commitment now on a future building may not be needed or used.

Most Authorities do not have assets sitting around that they can dispose of. Those that are left are the difficult ones, the ones that need working on. At the moment we are doing a

lot of work on income streams. We are looking at Authorities' investment portfolios, and the income profiles, and then working out how they can raise capital from that. For example, can they fix their income for the next 5 years and then sell on that and potential future uplifts? This solution offers an income stream for 30/35 years and is currently attractive to some investors. We also get involved in actual estate management and estate strategy as well.

The local authority income stream issue is an interesting one we are working with Authorities accounting and related legal logistics. Our accounting friends get excited about Bonds and REITs, and this is not surprising as the set up costs for those are astronomic. As a result, these would not normally be used unless an Authority was contemplating raising hundreds of millions pounds worth of capital. Now Prudential Borrowing interest rates are going up there is increasing of excitement from the private finance institutions particular in those longer-term stable income streams. Some of the funds are able to offer almost better rates than through Prudential Borrowing and I think that is a tendency we will see more of over the next couple of years.

## Using Property Assets in Regeneration

How to use assets to encourage regeneration continues to be important. We still do not know what is to happen to RDAs, LEPS and the HCA and who might take over those responsibilities, but one of the things we are seeing Authorities doing is using their land as an equity stake, not taking out value, but taking out a portion of the end value and so, in effect, acting as an investor. Some Authorities are also borrowing to fund CPOs, and if you have CPOs running out you can keep them alive by funding those yourself and then promoting the schemes.

One of the big issues and uncertainties at the moment is TIFs. We are looking at business cases for TIFs with Authorities and the 2 big issues that stand out are:

1. What sort of local rate retention are you going to be able to keep? Is it just non domestic rates? Will it be new homes bonus? Will it be council tax? Because that will have a big impact on the sort of TIFs which might be brought forward and the sort of opportunities which you might be able to create. If all you are doing is being able to keep local business rates then the possibility of using a TIF and creating a TIF for schemes that have quite a high residential content will be remote.
2. Keeping the risks down on TIFs. There are certain types of opportunities where we can see that the risks for a Local Authority are actually much smaller than others. So if you took the example of infrastructure which is needed to create a shopping centre, you know broadly that when you have got unconditional consent you know that the shopping centre will be built and the rates will flow because it will probably be about 90% pre let when it's open. That is a more secure option than an office park, for example, which may take 20 years to build out and there

is no certainty on when the rates are actually going to come in.

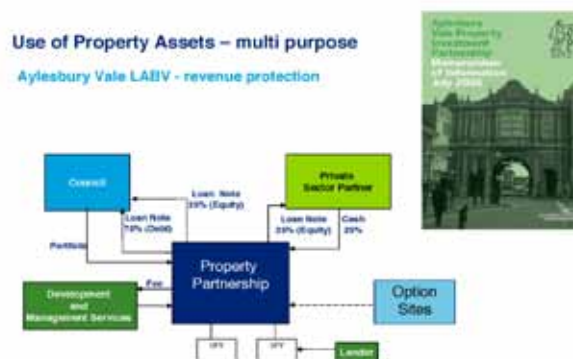
Those are some of the issues we are looking at with authorities and with funders, for example the banks and institutions, as well. Developers and many retailers are looking at opportunities again and you need to think about how are you going to smooth out those discrepancies and what sort of risks would they take on. I do think that with those types of arrangements it is not just going to be Prudential Borrowing; it's also going to be private finance as well.

With regeneration though you should not forget that there are some tried and tested routes that are still there to be used. There is the traditional joint venture option that developers will sign up to if the scheme is being well run. There are also still routes of working exclusively with one person if you really want to. They can involve transfers and options to buy back and restrictions and so forth, and they do require a large degree of trust between the two parties, so whilst we are structuring them, they are still a bit clunky at the moment.

Finally, Asset Backed Vehicles are talked about a lot but there are not actually that many of them around. They are right for certain things but not for others.

## Some Case Studies

Aylesbury Vale LABV Aylesbury has some industrial estates which generate an important revenue stream but needed capital investment and intensive management to prevent that revenue falling off a cliff in a few years' time. We brought in a private sector partner. The assets, including the estates and a few others, were transferred into the vehicle. The vehicle pays back to the council in terms of interest the same amount of revenue and that is guaranteed for the next 20 years or so. That revenue is funded by the income that comes in from the assets. The surplus, over and above what goes back to the council, is then recycled through the vehicle back into the industrial estates and into development opportunities.



Bournemouth This is another vehicle that has just closed. We just advised a bid on that, an example that has been used for regeneration. The council had 20 sites, mostly car parks, across a small area of the town centre and the Authority wanted someone to sort out their car parking. They wanted better use of some car parks so that they could release others. Also

they wanted someone to improve the quality of some of the development opportunities in the town. From a private sector point of view it was an interesting opportunity because in effect the developer had first call on 20 sites over the next 20 years. They were good sites because there was quite a bit of early win, so developers were funding the upfront costs of bringing the sites forward, but because some of those sites were actually coming quickly, they were actually getting repaid back on that. I think importantly there is value capture here because it is such a small area that once the developer starts raising the quality bar and raising the values they will benefit directly from it because they are the ones who will do the other opportunities; another available tool to consider.

Bournemouth LABV – development/regeneration



## Conclusion

We are very aware of the issues that are facing you in terms of cost cutting and transformational changes, and property is a fundamental and integral part of that. There are all sorts of different ways that you can use it and I think that the issue here is being aware of those and making sure you pick the right solution for what you are trying to achieve.



# ASSET



## GETTING “BEST VALUE” – HOW LOCAL AUTHORITY ASSETS CAN DELIVER LOCALISM

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### THE AUTHOR:

Lady Hanham is a Conservative member of the House of Lords and was leader of Kensington and Chelsea Council from 1989. She was made a Life peer as Baroness Hanham, of Kensington in the Royal Borough of Kensington and Chelsea in 1999. Lady Hanham has held the various positions of Shadow Minister for Local Government, the Home Office and Transport, and was also Chairman of St. Mary’s Hospital NHS Trust from 2000-2007. She became a Freeman of the City of London in 1984 and was awarded the CBE in 1997.

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CONCLUSION

ACES Spring Conference  
London, May 2011

ACES Paper No 11.05/9 by

**LADY HANHAM**

Parliamentary Under Secretary of State at  
Communities and Local Government

## Asset Management and Localism

Asset Management is becoming of increasing importance in this age of rationalisation and reduced resources. In particular I refer to the management of public sector land and property, and I know that ACES members are already spearheading this. Asset Management falls neatly into the Government's localism agenda in which Local Authorities play a key role. Good Asset Management it is not just about Local Authority assets in isolation; it is also about bringing together all public sector land and property and providing new and exciting opportunities in local areas. It is in the hands of local public sector Authorities, not Government, to bring projects about and these projects should be set against the background of each area's own requirements. In this paper I will identify some of the challenges and steps the Government is taking to ensure that the public estate is used more effectively to match the expectations of local people. Also I will outline some of the lessons being learned from the Capital and Asset Pathfinder programme, as well as discussing "meanwhile uses" and the transfer of assets to communities.

In writing this paper there is some cause for hesitation, because I am aware that ACES members are all professionals within this field and so I will endeavour not to teach my Grandmother to suck eggs.

## The Challenges

The public estate is worth about £385 billion, with around two thirds of this owned by Local Authorities. Estimated running costs of all this are £25 billion per year. These figures suggest there should be scope for significant savings, but most importantly improvements, especially when the estate and the services it supports have often grown up piecemeal over the years. The more effective use of land and buildings can bring a number of benefits, such as raising capital funds for reinvestment, increasing energy efficiency, reducing running costs, and sharpening the focus of service delivery. That perhaps is one of the most important aspects of this. There are also exciting and interesting opportunities to improve coherence between organisations; for example, some areas have already brought together public bodies such as JobCentrePlus, parts of the NHS, Police, Inland Revenue, Housing Benefit and so on, and they have all been brought together under a single roof which not only has enormous benefits from the property management point of view, but means that people who need services do not have to traipse from one building to another; it's all there and they can just move seamlessly from one service to another.

## The Pathfinders

The Pathfinders have identified some good practice. Some have found good ways to use and collect customer data, share asset data and are beginning to look at addressing the barriers and problems associated with bringing the assets together. We see in Government that managing the public estate collectively increases flexibility and coherence.

To develop these opportunities we need to encourage all local public organisations, communities and individuals to

work together to bring out the benefits that can accrue from cooperation. To help with this the DCLG decided to create a Capital and Asset Pathfinders Group, which was formed from eleven Local Authority areas in England. I am chairman of that Group and we assembled a package of advice and support from the sector to offer practical and bespoke assistance to each one of those eleven, including from the Local Government Improvement and Development Agency, Local Partnerships, the National Improvement and Efficiency Partnership and Locality, which is formerly the Development Trusts Association. The Pathfinders have now all produced strategic plans for their areas and at the core are developing a joint understanding of the advantages that can accrue from this work.

The Pathfinders have been mapping all the public assets in their areas. This is something new as this information has not previously been available in one place. I think it is also salutary to note that some of them have found land and property that they did not know about. The business cases submitted include proposals for property rationalisation, service improvement, opportunities for regeneration and also substantial savings. 7 of the Pathfinders, who between them have produced twelve projects, identified a number of benefits and opportunities producing possible savings of £155 million over 25 years. But they have also identified barriers to success. One of these was the difficulty in dealing with Whitehall departments, particularly those that had different capital receipt regimes than those of Local Government, and different priorities. However, with a Ministerial lead we have been able to broker successful discussions and we will continue to do that so that mutually beneficial opportunities are not lost.

It is not only now, with property, that Government departments are having to come together, but across the board the Government Department silo mentality is having to start to break down. Otherwise we cannot, with asset management and community budgets, get it worked out that you bring services together. The Pathfinders are also working out longer-term strategies with other public bodies to achieve the vision that they have for their areas; setting up projects, timescales and business cases for change, and also the expected savings as well as the benefits.

Some examples of projects that are already underway are:

- One Pathfinder is working with Schneider Electric, drawing out significant private sector investment in exchange for a share in the returns in a scheme which sees Schneider install Photovoltaic cells on public sector buildings thus helping them to save money;
- Cambridgeshire is adopting a joined up approach to the management of the public sector asset portfolio across Cambridgeshire and they believe that that can deliver significant cost savings;
- Swindon also has an energy project;
- Substantial leverage of private sector investment in Bromsgrove in Worcester has resulted in extensive work being done leading to major savings and improvement to the high street, making the most of underused properties and exploiting marriage values of nearby sites. That project has already realised £2.5 million in capital receipts and looks likely to bring in a total of £10 million over the next few years.

Those are just some examples of projects underway. In addition, I am currently developing options to create a culture of collaboration in Hampshire. Hampshire has been the pioneer and inspiration of Asset Management, but as a Pathfinder it has demonstrated that the significant benefits and opportunities can be achieved from adopting a collaborative public cross-sector approach to asset rationalisation. They started in two specific areas, Basingstoke and Winchester. These projects have shown that it takes some time to begin to realise benefits and this reinforces the need for upfront investment and determination to bring projects about. This issue of timing remains one of the principle local barriers to success and I think we have all got to recognise that this is not a short-term fix but it is a longer-term policy. The aim in Hampshire is to move towards a culture of collaboration that is embedded in all Asset Management across the public sector. If this can be taken to all of the wider Hampshire area and beyond the true potential and scale of benefits can be realised. These are great examples and we want areas across England to learn from the work the Pathfinders have done, so the Local Government Group will soon be taking on the baton from my officials and I, leading and promoting this improvement and this work throughout the public bodies sector.

The Local Government Group has already been helping Pathfinders in developing plans and is well placed, I believe, to join that up with work that other areas have undertaken independently and roll out the lessons to be learnt. We are going to be making a detailed announcement soon about this programme and how it is going to be taken forward. Another important innovation has been the development of a map. This map will bring together information about public service assets across a number of areas of England initially, but it will become, in due course, a comprehensive nationwide map of public assets. The data from local sources as well as national datasets for Central Government, health and schools will for the first time give a view of the extent of the public state in any area.

## Meanwhile Uses

Capital and Asset Pathfinders represent just one important piece of work we have initiated. We are committed to encouraging and helping local communities to help themselves and there are many examples of this taking place. It is essential in the present economic climate to ensure that the best use is made of our collective property resources and one such is the “meanwhile use” of empty or redundant buildings. This can range from using empty shops for temporary art galleries, to turning a major town centre development site into an urban park whilst development is on hold. What I think people are beginning to realise is that everybody wins from meanwhile uses; property owners save on costs, meanwhile users get premises to try out new ideas and neighbours benefit by not being blighted by empty property in their shopping parade or neighbourhood. Major property developers are beginning to recognise the benefits too. Promoting meanwhile use of a development site is good public relations, helping build positive relationships with their local business and community.

## Community Uses

There are other examples of course where communities have taken over public and private assets and put them to good use to serve the local community for the long term, including everything from redundant town halls to the 250 shops across the country that rural communities have bought to keep them as a vital resource for their communities. Local Authorities are at the forefront of making this happen. Government is committed to making it easier for more communities to bid for property assets that are important to them and we have included proposals to achieve this in the Localism Bill that is currently going through Parliament. The Community Right to Buy Assets of Community Value provisions in the Bill will require Local Authorities to maintain a list of assets considered to be of community value. When listed assets come up for sale, a window of opportunity will come into effect before the owner is able to partake in a sale. The purpose of this delay is to allow time for a community group that is interested and able to, to prepare a proposal and business plan and identify funding sources for a use that would be of benefit to the local community. We are proposing, in the consultation document, which is just out at the moment, a “Right of First Offer” for eligible community interest groups. That is to say, allowing sales by any owner to a community interest group at a mutually agreed price without waiting until the end of the window of opportunity.

The Government wants to see an increase in the number of voluntary and community groups engaged in the running of local services and assets and one way of helping them to achieve this is for Local Authorities and other public bodies to transfer the management or ownership of suitable assets, buildings or land to community based organisations. Much is already happening and in a survey of 113 Local Authorities carried out by SQW Consulting last autumn it was found that 87 of those Local Authorities were in the process of transferring assets to local communities, with more than 350 asset transfers also in the pipeline. So far 92 Local Authority areas have received practical help and 75 Local Authorities now have Community Asset Transfer Strategies now in place.

## Conclusion

This is a brief overview of some of the Government’s initiatives to aid and encourage greater use of public sector land and property assets. As I said at the beginning, the responsibility for this lies firmly with Local Authorities, local public bodies and communities, and not Central Government. The whole purpose of Localism is to transfer the responsibility and power from Central Government to Local Government and Local Government then will be judged on what it does by local people. We believe that these initiatives will drive efficiencies, but remember that this is not just about maximising receipts; it is also about communities being able to make full use of the publicly owned assets in their own areas. Localism is already at work but there is still a lot more to do.

However, we believe that it presents new opportunities and challenges for the guardians of the public estate, who are in the forefront of turning this into a reality.



## THE AUTHOR:

Andrew is Director in Corporate Real Estate Consulting specialising principally in operational property management and how this can be used to optimise business/service performance. He is involved in developing and implementing Accommodation Strategies for Local Authorities, Central Government, Education and Private Sector clients.

Andrew is particularly interested in issues relating to funding and project delivery and has advised on the implementation of projects via many routes including: Private Finance Initiative (PFI), Public Private Partnership (PPP), Private Developer Schemes (PDS), and traditional forms of funding to support strategy implementation.

Andrew has been with DTZ (and formerly Donaldsons) for over 15 years and has been instrumental in developing the firm's corporate real estate consulting offer over this period. Prior to joining Donaldsons / DTZ Andrew spent four years with Drivers Jonas in London where as part of a Specialist Valuation Team he dealt with rating appeals, compulsory purchase, valuations and public sector consultancy projects. 152 words



## THE AUTHOR:

Laura has a wide range of experience in advising local authorities and other public sector bodies on the effective use of the operational and non operational asset base to achieve cost savings and to enhance income generation.

Laura is working with Mendip District Council to define a strategy for reducing its operational office footprint (and cost) through the modernisation of existing space, the introduction of 'rotating' remote working, a reduction in the daily on-site workstation provision and asset sharing based collaboration with other public sector bodies, by offering surplus space.

Laura led a multi-disciplinary DTZ team to review Bristol City Council's 3,000 strong Investment Portfolio to find opportunities to extract capital receipts whilst maintaining or enhancing the c.£12M annual income from the portfolio. Laura is also a procurement specialist, using regulated and EU compliant procedures, and has also appeared as Expert Witness.

# PRACTICAL TIPS FOR COST REDUCTIONS

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CONCLUSION

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**ANDREW SMITH**

DTZ

**LAURA STAMBOULIEH**

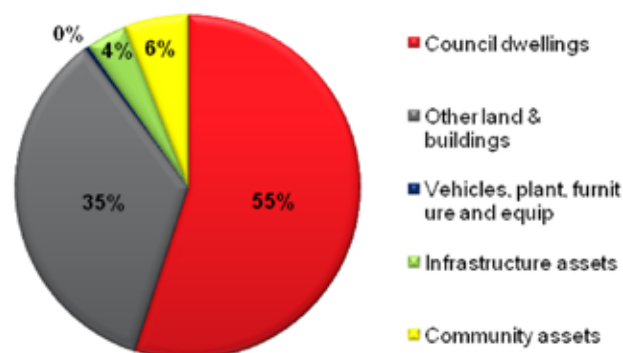
Director, Consulting, DTZ

## Andrew Smith, High Level Diagnostic

I intend to introduce you to a tool we call a High Level Diagnostic. This is where we go into an organisation for a short and intense period and look at various aspects of property and property management to come up with an action plan to produce cost and property efficiencies and savings.

The 3 core aspects we look at are the physical portfolio, the way in which the property is managed and the way in which it is funded or financed. These tend to overlap in many areas, sometimes completely, but what we are looking for are things that can be done to improve performance. Some are easy wins that can be done immediately or within one or two months; some of them will take maybe a year or two to sort out. We go in and address where there is scope for saving and improvement, assess the size of the possible prize and what is involved in getting to it. After that an action plan is formed for the organisation to follow to achieve the desired goals. I am going to borrow some of the methodology we use in this paper.

To provide some context on the scale of an organisation's property costs this example of a small Borough Council shows the annual cost of staffing the organisation and the cost of housing those staff in the Authority's buildings. Whilst it would be incredibly difficult to shave 20% from the cost of the organisations' property portfolio which would only provide a small overall saving, re-organising the property to better serve a reduced number of staff may slice 20% from the total staffing cost which would result in a much larger saving.



## The Process

### Physical Portfolio

First of all we look at the physical portfolio and see how we can align this to meet operational need. The single most important way to cut costs on the estate is to cut floor area. Space equals money. This is true across all portfolios, and it is important to note that this is not only about office space but also other public buildings such as law courts, hospitals etc. which have been progressively getting bigger over the past 30 years or so.

Government is now beginning to realise this and is looking at relaxing space standards, starting soon with secondary

schools. Whenever this happens, it calls for a fundamental re-appraisal of how that portfolio, within the wider portfolio, is dealt with. In terms of aligning the physical portfolio we look at them one by one, e.g. libraries, schools etc. and work out how we can rationalise, make more efficient and get better performance from them. It is not always immediately obvious how to do this. For example, libraries do not need to be as big as they used to be, but it is sometimes more expensive to close a library than to keep it open, so one way of dealing with this is to downsize the existing library and use the remainder of the space for neighbourhood services which, for example, may free up another building elsewhere.

## Management

Next on the diagnostic is management. When we do the exercise we look at many aspects of management, and essentially we are looking at the relationship between the wider business planning and the property planning, ie how strong that is, how efficient it is, where it breaks down, and how can it be improved? We also ask how that translates into goal setting and budget setting. At the end of the day we are looking at two key aspects; one of which is operational capacity i.e. getting the day to day running right, and the other is strategic capacity i.e. getting the vision right. There are fundamental questions we can ask about the means of getting there and the means of delivery. Sometimes this needs hard graft and sometimes it is about a structural solution.

## Finance

The third main area for diagnostic is finance. It is fair to say that markets have been in turmoil over recent years and we are in a situation now where we have interest rates at 0.5%, which I never thought I would see. We have a private sector that finds it almost impossible to borrow for anything to do with property, we have a public sector that can still borrow, and in fact Local Government's ability to borrow has hardly been hampered even at CSR, although it was made more expensive. The climate has completely changed. The way in which you currently finance your estate ought to be re-visited. This is not normal; these are exceptional times and there are many opportunities now to do things to throw out a lot of value. I have been working with many authorities in re-gearing estates and specific properties. Sometimes at the property level it is as simple as just buying in a leased building and that might save 30 or 40%. Currently there are huge opportunities. These are strange times. There is a very large arbitrage at the rate at which you can borrow and what the market has in terms of property yields and what the private sector can borrow at and it is an opportunity to exploit that for value at this time. We are working on a whole raft of new delivery vehicles and they are very much the fashion, but one thing I would caution is that you should always start out with what it is you need to achieve and how best to deliver it. All of these models are not the panacea to everything and some of the deals might not look so good in 5 years when the market has changed.

## Property Performance Matrix



This matrix is a simple tool that enables you to get through a portfolio of properties and come to a strategy very quickly. You just ask two simple questions of every property that comes up. One is "Is this property fulfilling any useful aspirational or strategic role; yes or no?" If it is yes it will go on the right hand; if no it goes on the left. And then you ask, "Is this property delivering an acceptable financial performance, yes or no?" If yes it will go in the top half and if no it will go in the bottom half. If you get two yes's then that property is very useful, aligned to corporate objectives and is delivering an acceptable performance. The presumption here would be that that building is retained. On the other hand if it is "no and no" it is not a property worth keeping and you should find a way to get rid of it. If it falls into the two yellow boxes, you need to find ways to get it to move into the green box or consider disposing of it. This is a very simple tool but also an incredibly useful one.

## Conclusion

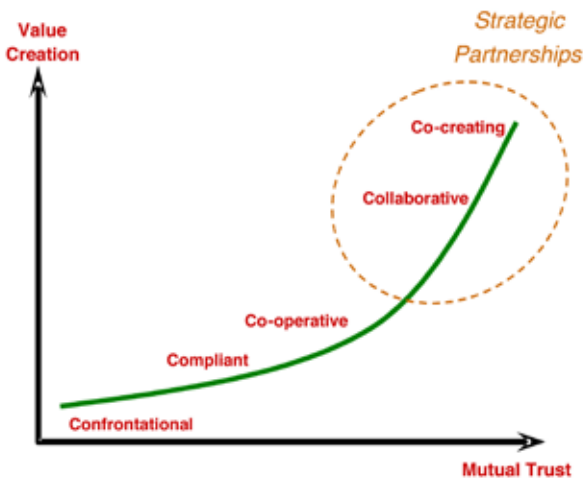
We are in challenging times but that delivers opportunity because I think that more than ever before there is appetite for change and appetite to deal with some of those thorny issues that in the past have been too difficult, like those obsolete town halls that we could not get rid of because of Board members etc. That appetite is now there to face up to such issues. We can now deal with difficult problems and the important thing is that this is the time really for all participants to get involved and contribute to the process that needs to be gone through. I think it is an exciting time for property professionals to show what they are capable of and what they can do. We should look at it as an opportunity.

## Laura Stamboulieh, Collaboration in the Public Sector.

### Has the Appetite 'Shifted' since August 2010?

You may recall that at the September ACES Conference I did speak and produce a paper about collaboration. Although the theme of that conference was "Property: A Driver for Change," which we being true consultants changed, for our

paper, to "Property: A Driver for Collaboration?" We were reporting back to you on the findings of a survey of mostly Local Government organisations against a context of all sorts of agendas, uncertainties and different forces. Back then ACES members were keen to know where their own organisation was on the graph that represents the evolution of effective collaboration and our overall conclusion was that local government was not quite there ... yet.

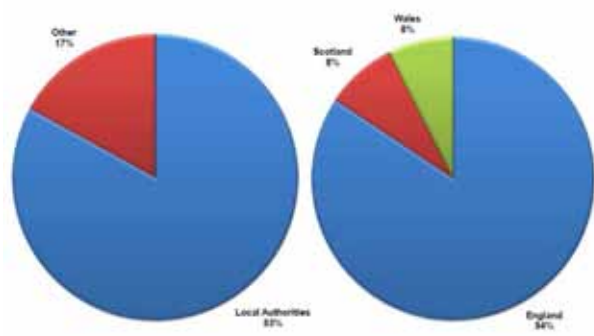


The August 2010 Survey headline results were

- 82% believe that collaboration can achieve significant results, (encouraging)
- 42% confirmed that no recognised formal collaboration existed within their organisation, (disappointing).
- Cost saving was seen as the major driver behind the Government's promotion of collaboration.
- Service enhancement to customers was also seen as a major driver, (interesting).
- 18% felt that collaboration was a threat to their organisation.
- 65% felt that shared asset utilisation was the only way in which true collaboration could work.

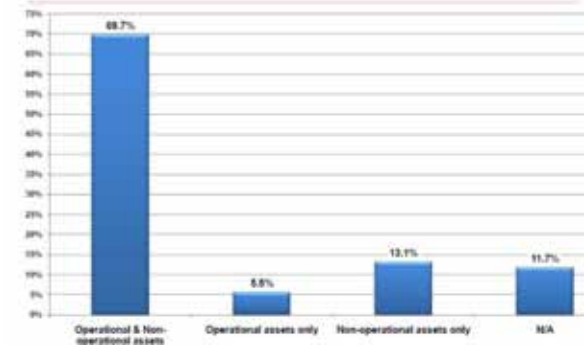
## Has the sentiment changed? What is the appetite seven months on?

With the help of the ACES President, Paul Over, DTZ launched a new survey in March 2011. We introduced a few enhancements including giving some categories of collaboration such as sharing assets, sharing real estate services and sharing non-real estate services. The survey was sent to a similar range of organisations, largely Local Government and Emergency Services and Health. In future we intend to consider inviting Central Government to complete the survey too. And this time we asked a little bit more about you, the respondents for example what type of organisation you are, and the geographical location you are based in.



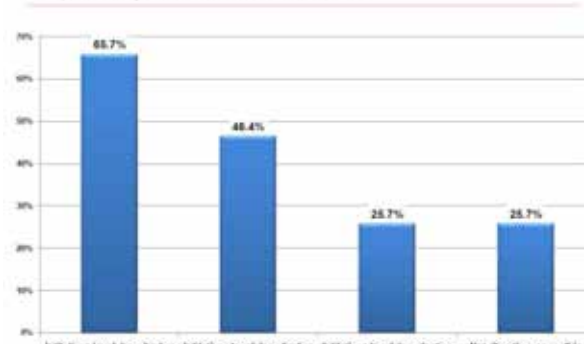
We also wanted to know what your responsibility for property assets was, so we asked whether you were responsible for either operational and non-operational property, or both. Surprisingly the majority were responsible for both, which is similar to the previous survey when 65% described themselves as Head of Property or Estates.

Responsibility for property assets



Finally we wanted to know about your responsibilities for collaboration initiatives and you can see that we have broken those down into the 3 categories and the majority came back saying they were involved in collaboration initiatives involving sharing assets.

Responsibility for collaboration initiatives



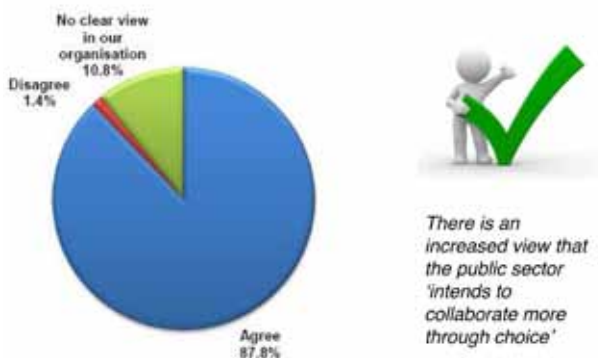
What did the survey tell us this time? First a couple of positives

About 88% agreed that collaboration is high on the agenda in their organisation.

But 11% felt that there was no clear view in their organisation on collaboration. This is slightly worrying but that might be just the perception of that individual.

The second positive is that there is an increased view from the public sector that it intends to collaborate more through choice and not through enforcement.

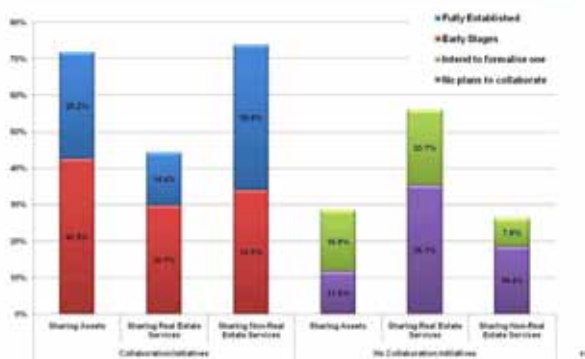
"Collaboration is high on the agenda in our organisation"



### So, the big question is what quantum of collaboration is taking place?

We see here is that the blue bars split into the three categories that show fully established cooperation initiatives. The red bars show on going but early stage collaboration initiatives. On the right hand side, however, in purple and green this is where you have confirmed that this is where no collaboration initiatives exist whatsoever. I am not sure whether we need to be worried about this.

Collaboration Initiatives



About a quarter of organisations surveyed are not yet collaborating on asset sharing and the sharing of non-real estate services and around a half are not yet collaborating on shared real estate services. Interestingly around two thirds confirmed that their organisation is collaborating on asset sharing and that concurs with the previous view from 65% who felt that effective collaboration could only occur around asset sharing and co-location.

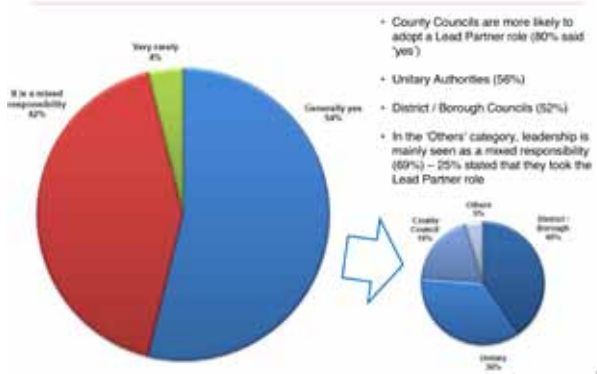
We then wanted to find out who you were collaborating with and unsurprisingly the blue lines were around sharing assets, Police and Health remain to be popular partners. The red bars represent sharing real estate services and there is more of a theme around district and borough councils and the green is non-real estate services collaboration and again there is a theme around districts and boroughs.

Popular collaboration partners

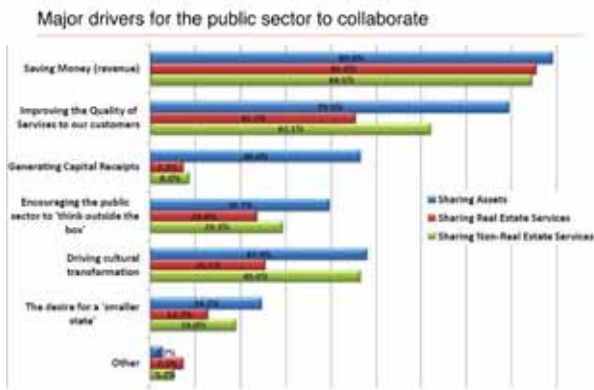


We then asked about who adopts the role of the lead partner. There is a general view from County Councils that they adopt the lead partner role more than others. However other respondents tended to see it as a mixed responsibility.

Do you adopt the role of lead partner?

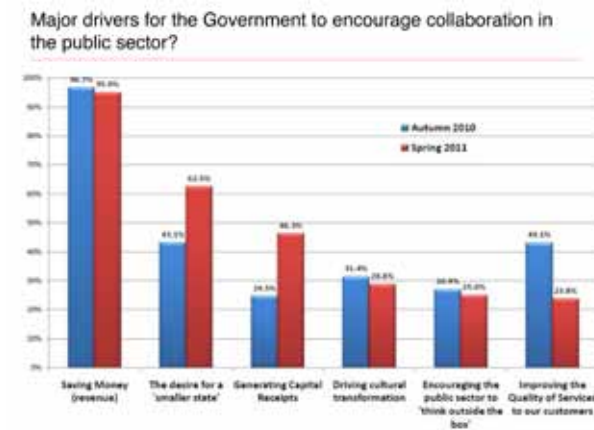


This is where it starts to get interesting. We asked Local Government why you might pursue collaboration. Unsurprisingly cost saving is seen as a potential driver and high priority. For sharing assets and non-real estate services a major driver for Local Government is improving the quality of services to customers.



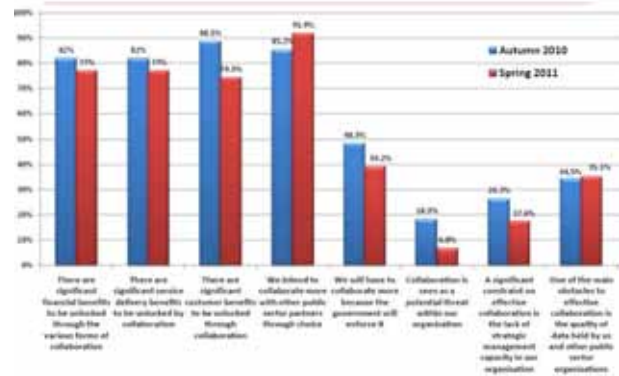
It is also interesting to see that you would probably pursue collaboration in order to drive out cultural transformation around sharing assets and non-real estate services but less so around sharing real estate services. Continuing on the theme of drivers, we then asked you to forget about why you might pursue collaboration, and to think about why you think the Government is encouraging you to pursue collaboration. Again, we see saving money as a high priority and there is not much of a change in terms of saving money as a Government driver between the figures for now and last August.

You also now believe that the Government is pushing collaboration more because it wants a small estate. This is probably because of the GPU pilots etc. but that is an interesting shift in view there, likewise with generating capital receipts. In the autumn it was at around a 25% response rate but this has now shot up. I am not sure whether we should be worried about this or not, but your view is that Government no longer sees improving the quality of services as a driver for collaboration. You can see your view has shifted quite a bit in that area, Food for thought.



Moving on to other statements that we put to you, there are a few messages.

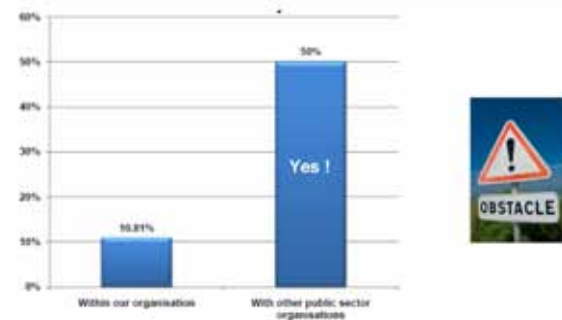
Public sector agreement to DTZ statements



The first few groups of bars seem to tell me that you are having a slight change of heart about what the benefits of collaboration. There has been a slight dip in agreement to those statements. Secondly, as we have already said, there has been an increasing view that you will collaborate more through choice. In terms of the threat, there is a drop in the view that collaboration is a threat so that is a positive. Whilst we have got a significant constraint on the effect of collaborations and the lack of strategic management capacity in our organisations, there is a positive there in that you seem to be feeling that the strategic management of your organisations is getting itself in order and that it represents less of a constraint.

The final set of bars on the right is about the quality of data. Your view on the quality of data being an obstacle has largely remained the same so there seems to be an issue there and we will see if that changes with the Government's initiative to improve the national dataset.

"A lack of clearly defined objectives is an obstacle to effective collaboration"



This slide is a statement about saying the lack of clearly defined objectives is an obstacle to effective collaboration. Interestingly 50% thought that was the case in terms of a partnership with other public sector organisations so there is a message there in that there has got to be a point to collaboration and we heard earlier that there has to be benefits all round and some very clear objectives.

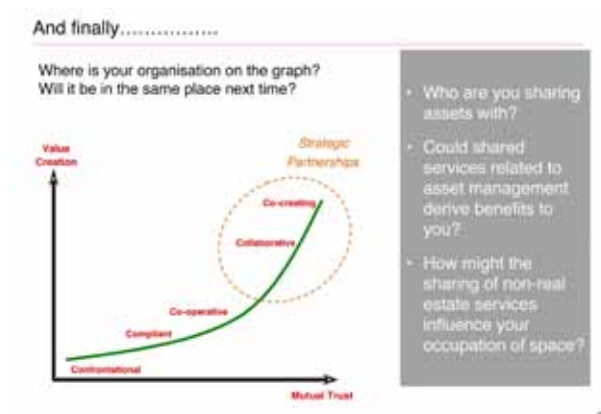
## Conclusion

Summarising the headlines of the survey whilst collaboration is high on the agenda, there still seems to be some areas where no collaboration is being planned. Less of a threat is a shifting view about why Government is pushing collaboration now and a positive around the management capacity of organisations being less of a hurdle to collaboration. You have heard about Police and Health being most popular partners around sharing assets, County Councils reckoning that they take more of a lead role and the lack of data and common objectives remaining potentially as obstacles to effective collaboration. These are probably the major headlines in my view, but you seem to be shifting your own views on the benefits of collaboration. Saving money is still the driver, but are we foregoing quality of service to our customers because the focus is so much on savings?

Thoughts for the day:

- Should we be concerned that almost 11% of those that responded felt that there was no clear view on whether collaboration is high on the agenda?
- If 11.5% of those that responded have no intention to collaborate around asset sharing and 35% have no intention to collaborate around shared real estate services, why is this and is there a role for ACES here?
- And finally is there a real nervousness that in seeking to drive out all these cost savings Government is saying it is prepared to forego quality of service to customers?

Finally I will ask the question again; where do you think you and your organisation are now? And if we get asked to do this again where do you think you will be? Will you be in that bubble? I think you are just getting in there now.



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